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ARISTOCRATIC SOCIETY IN  
ANCIENT CRETE



# ARISTOCRATIC SOCIETY IN ANCIENT CRETE

by

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## PREFACE

**T**HE history of Greek civilization belongs within the general context of the history of the Ancient Near East. The island of Crete, which is about 156 miles long from east to west and about 36 miles from north to south at its widest point, flanks the southern entrance to the Aegean basin, and forms a bridgehead, geographical and historical, to the Greek mainland. The earliest known inhabitants of Crete were neolithic immigrants, at first mainly cave-dwellers, using fairly highly-developed stone implements and weapons, who came partly from Anatolia, partly from the Delta, and settled in the east and south during the fourth millennium.

In the course of the Early Minoan period (*c.* 2800?–1800 B.C.), the original inhabitants were joined by more immigrants from Asia and also perhaps by a small wave of settlers from Libya. Metal-working was introduced, foreign relations were maintained with Asia, Egypt and Libya, and overseas trade was chiefly directed towards Egypt and the Cyclades. The population rapidly increased and now tended to concentrate in the towns and villages which replaced the scattered settlements of neolithic times. The eastern part of the island was the most prosperous and important coastal towns were founded at Palaikastro, Psira, Mikhlos and Gournia.

The Middle Minoan period (*c.* 1800–1550 B.C.) was marked by the introduction of bronze; and also by the arrival of the potter's wheel, probably from Asia. Trade with Egypt was further developed and direct relations were maintained with Syria. The population tended to increase steadily and to spread westward. The chief centre of political power was now established at Knossos; and there was a growing unity of culture.

This process of unification, under the hegemony of Knossos, was completed by the Late Minoan period (*c.* 1550–1100 B.C.). A network of good roads, protected by forts at intervals, linked the Minoan towns together, and Knossos formed the centre of a



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highly developed Cretan bureaucracy and of an overseas empire which embraced the Cyclades, Argolis, Attica and even perhaps Sicily. This prosperous empire was suddenly overthrown c. 1450 B.C. Knossos and other Cretan cities suffered violent destruction and were burnt down, probably by Minoanized invaders from the mainland. Minoan culture, though subdued, still continued; but the centre of imperial power now shifted to Mycenae, the seat of a warlike dynasty whose power was based on its control of bronze.

The Mycenaean or Achaean Empire was itself undermined by new invaders after about two and a half centuries, its collapse coinciding with the end of the Bronze Age. An age of transition in Crete was marked by the appearance of iron, accompanied by an increasing identity with the common cultural pattern of Aegean civilization. The newcomers, the Dorians, were a tribal people whose superiority was based on their employment of Iron Age techniques. They migrated overseas to various areas, including Crete. By the eighth century B.C. they had gained supremacy in the Cretan cities, and from roughly this time onward a new period of Cretan history opens, which lasted, in its essentials, until the Roman occupation in the first century B.C. In this period there was established a new social order with specific and tenacious characteristics.

The investigation of the origins and progress of this new type of society, Cretan aristocracy, forms the theme of this book. However, because the history and culture of Crete, like the rest of Greece, was in a state of continuous evolution from the neolithic age onward, such an investigation cannot be exclusively concerned with what was new; it must also take into account the adaptation of older institutions to the later framework. Within the strict limits imposed by the nature of the evidence, I have tried to give proper place to these two aspects.

Compared with the rich legacy of Greek civilization as a whole, the contribution of Crete, during this period, is modest. But Greek civilization was a unity comprising many uneven levels of development. Where this civilization was most advanced it had advanced so rapidly that these earlier phases were often obscured. But they remained more apparent in other areas, where development was arrested or more protracted. If then we ask why there was relatively little change in such places as Crete, our answers may be expected to contribute toward a fuller understanding of the nature

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of Greek civilization as a whole. This maxim was appreciated by the historians and philosophers of antiquity.

The major contribution of Cretan culture in the historical period was in the field of law. Law and order are traditionally linked, and Dorian Crete remained steadfast in its pursuit of order. Why this pursuit of order ended in disorder forms an important historical problem; and the investigation of the aims and content of the legal sanctions that were intended to maintain the order of society provides a natural means of approach to the solution of the problem. The Law Code of Gortyna is by far the most important single piece of evidence from Crete itself, and I have made the Code the bedrock of my study.

Part I therefore opens with a brief account of the Code and its discovery; and it then develops as an inquiry into the primitive foundations of the social system of the legislators, so as to make clear the evidence of the tribal institutions which formed the basis out of which the aristocratic states developed. In Part II the four classes of the Cretan states, and the mutual relations of these classes, are defined. Part III attempts an analysis of the stages whereby family institutions developed, in relation to the development of land tenure and of property. In Part IV the available epigraphic and literary evidence is drawn upon to present an account of the political system, and to substantiate the argument that Cretan society maintained a relatively uniform economic basis. Attention is also given to other such components of the apparatus of state as the bureaucracy, the official buildings, and the judiciary. In Part V the history of the mutual relations of the Cretan states is discussed and an explanation is offered for the protracted aristocratic character of Cretan society, despite the complex ties with a variety of foreign states which developed in the Hellenistic period; and it concludes with a general summary of economic and political developments.

I have attempted here no systematic account of the cults of the Cretan cities. The subject, from its nature, cannot be restricted to datable confines and isolated within a period, and an adequate treatment would demand far more space than could be envisaged within the scope and purpose of this volume.

R. F. WILLETT

*Birmingham,  
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## SYMBOLS USED IN THE CITATION OF EPIGRAPHICAL TEXTS

- [ $\alpha\beta\gamma\delta$ ] enclose letters believed to have been originally engraved, but now lost or illegible.
- < $\alpha\beta\gamma\delta$ > enclose letters accidentally omitted by the engraver.
- [[ $\alpha\beta\gamma\delta$ ]] enclose letters accidentally added by the engraver.
- ( $\alpha\beta\gamma\delta$ ) enclose letters for which the engraver wrongly substituted other letters, or letters added to complete an abbreviated form.
- $\alpha\beta\gamma\delta$  Dots placed under letters indicate that parts of the letters are lost or illegible.
- · · represent lost letters whose number seems to be certain.
- - - represent an uncertain number of lost letters.
- | for the beginning of a new line in the original.
- || for the beginning of every fifth line in the original.





# PART ONE

## PRIMITIVE FOUNDATIONS

tunc et amicitiam coeperunt iungere aventes  
finitimi inter se nec laedere nec violari,  
et pueros commendarunt muliebrique saeculum  
vocibus et gestu cum balbe significarent  
imbecillorum esse aequum misererier omnis.

LUCRETIVS



# I

## THE GORTYN CODE AND AGE DISTINCTIONS

### I. INTRODUCTION

THROUGHOUT the period surveyed in this book, the city of Gortyna plays a part of special importance from every point of view, and not least because of the relative abundance of its epigraphic sources. Although the city is mentioned in Homer, its archaic period is still almost entirely unknown to archæology.<sup>1</sup> But we can attempt a recovery of the bare outlines of the social development which it must have shared, in varying degrees, with other cities, from the time when Crete became 'Dorian' in the eighth century B.C., through the analysis of its surviving legislation; and in particular by examining the evidence which is provided by that body of fifth-century legislation commonly referred to as the Gortyn Codes, which were not completely discovered until towards the end of the last century.

As early as 1857 Thenon found an inscribed stone (Col. X),<sup>2</sup> built into the walls of a mill on the banks of the Lethaios which, according to Strabo, flowed through the entire length of Gortyna.<sup>3</sup> The stone was purchased by Thenon for the Louvre; and the archaic nature of its inscription and the difficulty of elucidating its meaning naturally attracted much attention. But it was not until 1878 that Bréal proved that the fragment dealt with the

<sup>1</sup> *Il.* 2.646; *Od.* 3.294; Demargne *CD* 29. The name was traditionally derived from a hero-founder *Γόρτυς* (Hdn. ed. Lentz I, 236), but tradition also held that this was its fourth and final name (St. Byz. *s.v.* *Γόρτυρ*).

<sup>2</sup> Thenon *RA* VIII (1863) 441 tab. XVI; Froehner *Musée impérial du Louvre: les inscriptions grecques* (Paris 1865), 180 no. 93; Voretzsch *JCP* X (1869) 665; Savelberg *ib.* 679; Cauer *Del.* 37 (1877); Bréal *RA* XXXVI (1878) 346; Bréal *Comptes rendus Acad. Ins.* VI 4<sup>e</sup> S (1879) 199; Roehl *IGA* 476 (1882).

<sup>3</sup> 10.476. Cf. 14.647; Ptol. *Geog.* 3.15.3; Solin. *Coll. rer. memor.* 11.9; *Q.S.* 10.82; Vib. Seq. *De Flum.* *s.v.*



## PRIMITIVE FOUNDATIONS

adoption of children. In the following year Haussoullier copied a similar fragment, in a house near the mill, which was found to concern the rights of heiresses (Cols. VIII-X).<sup>1</sup> Then, in July 1884, Halbherr, a pupil of Comparetti, visited the scene. By chance the water happened to be drawn off from the mill. The consequence was that a complete inscription was now discovered, cut upon layers of stone in a wall of circular structure which, if the circle had been complete, would have had a diameter of nearly a hundred feet. Twelve columns followed in sequence from right to left, and the circular wall on which they were engraved, formerly part of a much earlier building, had supported the *cavea* of a theatre built perhaps in the first century a.c. Halbherr copied a part and the remainder was copied later in the year by Fabricius, who was at the time travelling in Crete on behalf of the German Institute at Athens. Fabricius and Comparetti were responsible for the first publication of what has come to be known as the First Gortyn Code, and other editions, translations and commentaries have followed.<sup>2</sup> The Second Code,<sup>3</sup> only part of a few columns of which survive, of about the same date, completes the sum of what is often referred to under the general heading of the Gortyn

<sup>1</sup> Haussoullier BCH IV (1880) 460 no. 1; Blass RM XXXVI (1881) 612 no. 11; Roehl IGA 475, cf. 183 (1882).

<sup>2</sup> Fabricius AM IX (1884) 363; Comparetti *Ates. It.* I (1885) 233; Baumack (J. and T.) *Die Inschrift von Gortyn* (Leipzig 1885); Bücheler-Zielmann *Das Recht von Gortyn* in RM (Ergänzungsheft. XL 1885); Dareste BCH IX (1885) 301; Halbherr-Fabricius *Leggi antiche della città di Gortyna* (Florence 1885); Lewy *Altes Stadtrecht von Gortyn* (Berlin 1885); Bernhöft *Die Inschrift von Gortyn* (Stuttgart 1886); Dareste *Annuaire pour l'encouragement des études grecques en France* (1886) 300 and *Nouvelle Revue historique de Droit français et étranger* (1886) 24; Merriam AJA I (1885) and II (1886), text, English translation and commentary; Simon *Zur Inschrift von Gortyn* (Vienna 1886); Kœchhoff *Nederl. Museum* (1887) no. 7; Roberts *An Introduction to Greek Epigraphy* I (Cambridge 1887) 41 (Col. XI 1-15), 328 (Col. X 33-XI 23); Simon WS IX I (1887); Miroshnikoff *Goetinskie Zakoni iz Zapiski imperat. russk. archeol. obshchestva* III (St. Petersburg 1888) 317; Gemoll *Das Recht von Gortyn* (Striegau 1889); Comparetti MA III (1893) 87 no. 151; (Dareste) DHR I (1891-5) 352 no. XVII; Michel 1333 (1900); Hicks-Hill MGH I (Oxford 1901) 35 (Col. I only); Blass SGDI 4991 (1904); Roehl IGA<sup>4</sup> (1907) 9 no. 4; Kohler-Ziebarth *Das Stadtrecht von Gortyn* (Göttingen 1912) I; Schwyzler DGE (Leipzig 1923) 179; Heikel (Helsingfors 1924) 47; Buck GD (1928) 261 no. 110; Solmsen (Leipzig 1930); Tod GHI I (Oxford 1933 and 1946) 68 no. 36 (Col. I only); Guarducci IC 4.123 no. 72, with Latin translation by Comparetti and Guarducci. This is the text cited in this work. A bibliography of other works which deal with the Code, or with certain parts of it, is given by Guarducci in IC 4.146-7. The Code was translated into English by H. J. Roby in LQR (1886) 135-52.

<sup>3</sup> DHR I no. XVIII = IC 4.41. Cf. Comparetti MA 3 (1893) 245 no. 152; Blass 4998; Kohler-Ziebarth 28 no. 1; Schwyzler 181.



## THE GORTYN CODE

**Codes.** In this book, for the sake of clarity, the main inscription of twelve columns will be referred to as *the Code*.

The designation is a matter of convenience. For we must understand that it comprehends, not a complete code of laws, but a number of regulations on various subjects. The body of legislative clauses—even with the addition of the so-called Second Code—does 'not cover the whole field of law, but (is) statutory legislation amending prior written law on various topics . . .'<sup>1</sup> But the legislation is complete in itself.<sup>2</sup>

The inscription is clearly written in letters of about an inch high and only in a few places, where the blocks join, is it mutilated or illegible. It is written with an alphabet of only eighteen letters, which include  $\varphi$  (digamma). The development of the alphabet seems to have been slower in Crete than elsewhere,<sup>3</sup> as is indicated here by the absence of the signs  $\varphi$ ,  $\chi$ ,  $\psi$ .<sup>4</sup> Nor are  $\zeta$ ,  $\eta$ ,  $\xi$ ,  $\omega$  in use.<sup>5</sup> The writing is *boustrophedon*. The state of the alphabet, the forms of the letters, the analysis of linguistic data and the comparison with numismatic evidence have led to a general acceptance of the dating of the Code to the fifth century, probably about 480-460 B.C.<sup>6</sup>

Accepting this conclusion, we must however bear in mind some qualifying points of importance. Mention has already been made of the internal references to prior written legislation. But even if we knew the precise date of inscription of this prior material, we should still not be entitled to state that this would equally represent the date of its original composition. The Homeric poems were, in all probability, handed down by oral tradition before being committed to writing;<sup>7</sup> and we know that it was verse<sup>8</sup> and not prose that was cultivated in the Cretan education system

<sup>1</sup> Diamond PL 54. Cf. Kohler-Ziebarth 42.

<sup>2</sup> Proved by the  $\Theta\iota\omicron\iota$ , 'Gods', at the beginning, and the unused space at the end of the last column.

<sup>3</sup> Buck GD 261.

<sup>4</sup>  $\varphi$  is not distinguished from  $\pi$ ;  $\chi$  not distinguished from  $\kappa$ ;  $\psi$  represented by  $\pi\zeta$ .

<sup>5</sup> Represented by  $\delta\delta$ ,  $\epsilon$ ,  $\kappa\epsilon$ ,  $\omicron$  respectively.

<sup>6</sup> Comparetti assigned the inscription to the first half of the 6th C. B.C. Most scholars have agreed in dating it to c. 450 B.C. Guarducci assigns it to 480-460 B.C. See IC 4-40, 126, 149 and cf. RF XVI N.S. (1938) 268. Also Kirchhoff *Studien*<sup>4</sup> 78; DHR I 437-40; Kohler-Ziebarth vi; Buck GD 261.

<sup>7</sup> Thomson SAGS 435-577.

<sup>8</sup> Ephor. cited by Str. 10.482:  $\mu\alpha\iota\delta\alpha\varsigma\ \delta\epsilon\ \gamma\gamma\acute{\alpha}\mu\mu\alpha\tau\acute{\alpha}\ \tau\epsilon\ \mu\alpha\rho\theta\acute{\alpha}\nu\epsilon\iota\tau\epsilon\ \kappa\alpha\iota\ \tau\acute{\alpha}\varsigma\ \delta\epsilon\ \tau\acute{\omega}\nu\ \nu\acute{\omicron}\mu\omicron\upsilon\omicron\upsilon\ \phi\acute{\omicron}\delta\acute{\alpha}\varsigma\ \kappa\alpha\iota\ \tau\iota\upsilon\alpha\ \epsilon\lambda\theta\eta\ \tau\eta\varsigma\ \mu\omicron\nu\omicron\sigma\iota\mu\eta\varsigma$ . Cf. Heraclid. fr. 15:  $\gamma\gamma\acute{\alpha}\mu\mu\alpha\tau\alpha\ \delta\epsilon\ \mu\acute{\omicron}\nu\omicron\varsigma\ \mu\alpha\iota\delta\epsilon\iota\sigma\tau\alpha\iota\ \kappa\alpha\iota\ \tau\alpha\upsilon\tau\alpha\ \mu\epsilon\tau\epsilon\lambda\epsilon\iota\varsigma$ .

## PRIMITIVE FOUNDATIONS

at a time when the historians, orators and pamphleteers had fashioned a prose medium in Ionia and Attica; and that the Cretan, like the Spartan,<sup>1</sup> and perhaps even the Athenian youth,<sup>2</sup> learnt their laws by heart. So here the prior written material could have incorporated the sanctions of an oral tradition reaching far back into the primitive foundations of the social life of the ruling legislators of the fifth century. Oral tradition apart, it is not unlikely that fragments go back to the seventh century, and, in point of development, it has been held that there is justification for the view that the Code can be compared with the legal system of Athens in the seventh and sixth centuries.<sup>3</sup>

Since the Code presents us with statutory legislation amending prior written laws on various topics, it would be misleading to infer that the general tendency of the legislation as a whole represents more than an amending tendency, except where the internal references to prior written legislation seem designed to emphasize novelty.<sup>4</sup> We must be cautious in describing any provision as novel unless the evidence is clear. In this connection, it is not without significance that the Code is never retroactive.<sup>5</sup> It may be that its statutory legislation amending prior written law was sufficiently radical to make retroactive provision inadvisable: so that it is important to try to assess the general tendency of the amending legislation and its more novel features. This attempt will be resumed at various stages of the argument, but a beginning can be made with an examination of certain aspects of the institutional terminology of the Code which throw light on the primitive basis of the social system of the ruling classes of the Cretan cities, and, in particular, the organization and education of the youth.

<sup>1</sup> Freeman SH 20-1.

<sup>2</sup> *Plu. Sol.* III; *Hermipp. ap. Ath.* 619 b; Freeman SH 109. Cf. *Cratin. fr.* 122; *Arist. Pr.* 19-28.

<sup>3</sup> Bonner and Smith *AJHA* 71 n. 1, where it is pointed out that: 'It is noteworthy that there is no mention of homicide. It may be suggested that another portion of the Code, not now extant, dealt with this subject. Or, possibly, self-help in homicide was still practised and the state had not yet assumed full control.' On general grounds the first alternative is not unlikely. Cf. Diamond *PL* 144-50; Calhoun *GCLAG* 9-11, 28-9, 85-6; Thomson *OA* 1.9 and 2.352.

<sup>4</sup> *E.g.* V.1-8 and XII.17-21.

<sup>5</sup> Bonner and Smith *AJHA* L.119 n. 3. Cf. their discussion of the Draconian legislation *ibid.*



# THE GORTYN CODE

## 2. AGE DISTINCTIONS

A number of age distinctions appear in the Code as applicable to the free citizens; of which *anoros*<sup>1</sup> or *anebos*<sup>2</sup> signify the boy or girl below the age of puberty, and *ebion*,<sup>3</sup> *ebionsa*<sup>4</sup> and *orima*<sup>5</sup> the boy or girl after puberty. The age of female puberty has been taken to be fixed by the passage which gives the marriageable age of a girl at twelve.<sup>6</sup> There seems to be no sound basis for the suggestion that a boy was considered to have reached puberty at fourteen.<sup>7</sup> The alternative suggestion,<sup>8</sup> seventeen, the age at which the boys entered the *agelai*<sup>9</sup> (the 'herds' or bands in which they were trained), appears to be more plausible. This limit, whilst still preserving a distinction between *ebion* and another term, *apodromos*, also adds more substance to the conclusion that the *ebion* can marry,<sup>10</sup> testify in certain cases and adopt.<sup>11</sup> But it also involves an awkward contradiction. For *ebionsa* as a term would still relate to physiological reality, whilst *ebion* would have acquired a ritual or technical sense. This is possible, but, as we shall see, unlikely, because of the existence of the term *apodromos*.

Is it possible that the age of puberty was twelve for an *ebion*, as for an *ebionsa*? It is logical to assume that the term *ebion* must, at some time, have accorded with nature, as *ebionsa* continued to do. Is any change necessarily implied? Before deciding, it is necessary to answer more specific questions derived from the context of the passages referred to above.

The first passage (Col. VII 35-40) reads: αἱ δὲ ἄνδρ(ο)μοις ἰδὼν ὁ ἐπιβάλλων ἀντι|λεν ἐβίον ἐβίονσαν μὲ λᾷ ἀν|τιλεν, ἐπὶ τῷ πατρὶόκῳι ἔμε|ν τὰ κτῆματα πάντα καὶ τὸν κ||αρπὸν, πρὶν ἄντιλεν ('If the groom-elect does not wish to marry the heiress, although they are both of (marriageable) age, on the grounds that he is a minor, all the property and the income shall belong to the heiress until he marries her'). The Code here lays down provisions in the case of the groom-elect who, being marriageable but still a minor (*apodromos*), refuses to marry the heiress; and it goes on to provide for the case where the groom-elect is now *diomeus* ('of

<sup>1</sup> IC 4.72.VII 30, 54; VIII 46.

<sup>2</sup> *Ib.* XI.19. Cf. IC 2.V.25 A.7 (Axos).

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ib.* VIII.39.

<sup>5</sup> *Ib.* VII.37.

<sup>6</sup> *Ib.* XII.17.

<sup>7</sup> DHR I 407. The appeal to analogy is weak: 472 n. 2.

<sup>8</sup> Guarducci IC 4 p. 130.

<sup>9</sup> Hsch. s.v. ἀγέληες.

<sup>10</sup> IC 4.72.VII 33 ff.

<sup>11</sup> *Ib.* IX.46 ff.; XI.18 ff.

## PRIMITIVE FOUNDATIONS

adult status') and still refuses to marry. Whether we accept a figurative or technical age of puberty at seventeen, or at an earlier and more natural age, the clear implication that an *apodromos* may marry must be interpreted as a special case exceptional to the general rule cited by Strabo. For Strabo informs us that all those who were promoted from the *agela* were obliged to marry at the same time.<sup>1</sup> Both Nilsson and Thomson have, independently, stressed the significance of this feature of great antiquity.<sup>2</sup> Thus, Thomson interprets Strabo's statement as meaning that 'marriage was a state-controlled and public ceremony comprising all those who belonged to the same age grade'.<sup>3</sup> If the general rule was derived from primitive custom, the passage of the Code which we are discussing provides us with clear evidence of a novel provision. In seeking to ascertain the motive for this provision, we shall be examining a test case whose suggested solution may be expected to help in the more general attempt to assess the tendency of the amending legislation of the Code. For here we have independent proof of earlier general practice to serve as a point of departure.

The Code contains much in the way of detailed laws of property, enacted in response to the growing demands of a mercantile civilization.<sup>4</sup> The available evidence in Crete itself is not sufficient to explain the process of development of these detailed laws of property, their causation and social consequences. But this deficiency is compensated to some extent if we seek guidance from the comparative evidence, from related institutions elsewhere in Greece, and primarily in Sparta. Although the evidence relating to the inheritance of property in other parts of Greece is also meagre, it is, as Thomson has remarked, in discussing the Attic law of inheritance, 'sufficient to set the Attic Code in evolutionary perspective, because Gortyna was economically more backward in the fifth century than Athens was in the sixth, and Sparta, even in the fourth, was more backward still'.<sup>5</sup> A similar approach was implicit in Nilsson's examination of Spartan institutions.<sup>6</sup>

In Sparta, it was the duty of every citizen to marry at the

<sup>1</sup> 10.480: γαμῖν μὲν ἅμα πάντες ἀγαυόζοντας παρ' αὐτοῖς; οἱ κατὰ τὸν αὐτὸν χρόνον ἐκ τῆς τῶν παίδων ἀγέλης ἐκαιρούμενοι.

<sup>2</sup> Nilsson *GSL* *passim*; cf. Diller in *AJP* LXII (1941) 499-501; Thomson *AA* 106. Cf. *Pl. Lg.* 721 a, 774.

<sup>3</sup> *Ibid.* Cf. Jeanmaire *CC* 423.

<sup>4</sup> *AA* 201. Cf. *SAGS* 139.

<sup>5</sup> Diamond *PL* 54.

<sup>6</sup> *GSL*. Cf. also Ridgeway *EAG* II 68 ff.



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appropriate time.<sup>1</sup> Bachelors were branded by popular justice; were not allowed to watch the *gymnopaïdai*; on a winter's day, they had to go about the market wearing only a chiton, and sing a parody about themselves; and, at another festival, women drove them with blows around the altar.<sup>2</sup> The Spartan marriage rites were ancient and took the form of marriage by abduction without a dowry, an abduction that could be real and not simply formal.<sup>3</sup>

Nilsson considered that the Cretans were more modern in certain respects, but more old-fashioned in that the youths all had to marry when they left the *agela*. But it can be inferred from the comparative evidence that the exception to the general rule which is cited in the Code in fact testifies to the relative modernity of the Gortynians in their concern to apply the amending encroachment of law on more primitive institutions, in the interests of patriarchal property. For it is important to bear in mind that the provision relates to the marriage of an heiress; and also, when we are told that a girl may marry at the age of twelve, again it is the heiress who is the specific subject of provision.<sup>4</sup> The purpose of these regulations only becomes clear in relation to the more primitive Spartan and the more developed Attic systems.

After analysing the evidence for Spartan marriage relationships, Nilsson concluded that it is not surprising that a Spartan woman could be polyandrous—three, four, or even more brothers being content with one woman, and the children being theirs in common; from which it followed that they must also have had a common household and common property.<sup>5</sup> In Sparta, girls did not marry at an immature age,<sup>6</sup> the heiress was not obliged to marry the next-of-kin, and it was not considered necessary to ensure the transmission of property in the male line.<sup>7</sup>

At Athens, the heiress was obliged to marry the next-of-kin as soon as she came of age, and the next-of-kin, if already married, divorced his wife in order to marry the heiress.<sup>8</sup> At Gortyna,

<sup>1</sup> In addition to a *δίκη ἀγαμίου* there was a *δίκη ἀργυρίου* and *κατοικηρίου*. Poll. 3.48; 8.40.

<sup>2</sup> Plu. *Lyc.* 15; Ath. 14.553 c.

<sup>3</sup> Plu. *Lyc.* 15; cf. X. *Lac.* 1.3; Plu. *Apophth. Lac.* 297 f; Ael. VH. 6.6; Just. 3.3.

<sup>4</sup> IG 4.72.XII 17.

<sup>5</sup> GSL 329; Plb. 12.6.

<sup>6</sup> X. *Lac.* 1.6: *ἤταξεν ἐν ἀκμαίῃ τῶν σωματίων τοῖς γάμοις ποιεῖσθαι*. Cf. Plu. *Lyc.* 15: *ἐγάμον δὲ δὲ δευτέρῃ οὐ μικρὰς οὐδὲ ἀφρονες πρὸς γάμον ἀλλὰ καὶ ἀκμαζούσας καὶ πεπαιγμένους*.

<sup>7</sup> Hdt. 6.57; Arist. *Pol.* 1270 a; Thomson AA 203 and 446 n. 5.

<sup>8</sup> Is. 6.14; 3.64.



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although a similar rule applied, the heiress was more favourably treated, as we shall see.<sup>1</sup> Thus, even though it is later in date, the Gortynian procedure is more archaic than the Attic; but, as compared with Spartan custom, it represents a development along the same line of evolution towards the state of affairs represented by the regulations of the Attic Code. At Gortyna immature girls were already legally considered as appendages to the estate.

Therefore a need for adequate male succession explains the early marriageable age of the Gortynian heiress, and also the legal right given to the *apodromos* to marry the heiress in defiance of ancient custom. For, in the absence of normal heirs, it is still clearly laid down that the serfs may inherit the estate.<sup>2</sup>

Of the other two passages (IX.45 ff. and XI.18 ff.) we can at least say that there seems no reason to prevent our supposing that twelve was the recognized age of puberty in males. The first of these two passages reads: . . . *αἱ μὲν καὶ ἀποπαιδιῶντι μαίτρος ἐβίοντες κτλ.* ('If witnesses who are of age testify, etc.');

and the second: *γυνὰ δὲ μὲ ἀμπατεῖθθῃ μὲδ' ἀνέβος* ('A woman must not adopt, nor a male not of age'). Certainly, if marriage was allowed at twelve, why not also adoption, if special circumstances warranted it, on the principle that adoption *imitate la nature*?<sup>3</sup>

In Sparta, the male child remained under the care of his mother for the first six years of his life.<sup>4</sup> He then left home and for the next six years underwent the first stage of his training and education.<sup>5</sup> The third six-year period, beginning after his twelfth year, was introduced by more decisive changes in his habits.<sup>6</sup> Not only did his training generally become more rigorous, but

<sup>1</sup> IC 4.72.IV 31-44; VII 54-VIII 6. See further Ch. IX.

<sup>2</sup> *ib.* V. 25-8, punctuating however thus: *αἱ δὲ μὲ εἰς ἐπιβάλλοντες, τὰς φοῦδας οἰσιν; καὶ ἴσιν ὁ κλῆρος, τοῦτον ἐκινεῖ τὰ κλήματα.* I follow Comparetti, Bücheler-Zitelmann, Baunack, Blass, DHR. (But cf. Guarducci *ad loc.*: 'τὰς φοῦδας cum ἐπιβάλλοντες colligandum, non cum insequenti κλῆρος'; and De Sanctis SG I 508, where the argument seems to me fallacious.) An interesting and surprising parallel is provided in Hauluck *Cyprus* (Cambridge 1910) 149: 'The (Greek) villagers (of Kouvouklia) are said to be the descendants of Peloponnesian immigrants settled in the time of Sultan Suleiman the Magnificent (1520-66) as serfs on the lands of the local derebey, Karadja Oghlu. The serfs gradually acquired land, and at the death of the last derebey (about 60 years ago) without a direct heir were left in possession after a long lawsuit. . . .'

<sup>3</sup> DHR I 48a.

<sup>4</sup> *Plu. Lys.* 16. He was in what Michell (S 167) conjecturally calls the *προπαιδιον* class.

<sup>5</sup> *Plu. ibid.* He was now in what Michell calls the *παῖδιον* class.

<sup>6</sup> *Plu. ibid.*

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he no longer wore a tunic, he received only one cloak a year, ate hard, dry flesh, was not allowed to bathe or anoint himself except on a few specified days of the year, and he could now have a lover. From this time until he reached manhood his hair was cut short.<sup>1</sup> Cutting of the hair was a common rite marking the attainment of puberty by a boy in ancient Greece, as elsewhere.<sup>2</sup> It is probably due to accident that the custom is not recorded in Crete.<sup>3</sup> If our information were more abundant it would not be surprising to find that the Cretan boy, like the Spartan boy, cut his hair when he was twelve, and so, like the Cretan girls, reached formal puberty at that age, and was called thereafter *ebion*. Just as, in Sparta, 'the general title of the age-class 13-18 seems to have been *ἡβῶν* . . .'<sup>4</sup>

It therefore seems reasonable to suppose that the terms *ebion* and *ebionsa* mark the same real age; and also that *ebion* is to be quite clearly distinguished as a term from *apodromos*.<sup>5</sup> We have now to deal with this term, its antithesis *dromeus*, and the related terms *apageloi* and *skotioi*.<sup>6</sup>

*Apodromos* occurs only once in the Code, in the context (VII.35 ff.) already discussed, where it occurs along with *ebion*, and it is immediately contrasted with *dromeus* (VII.40 ff.): αἱ δὲ καὶ ὁδομεῖς ἰδὼν ὁ ἐπιβάλλων ἐβίωνσαν λείονσαν ἀντιλεῖναι μὲν λέγει ἀντίεν κτλ. ('If the groom-elect, when he is adult, refuses to marry the heiress, although she is of age and consents, etc.'). The contrast would not be sufficient in itself to establish a privative force for *apo-* in *apodromos*.<sup>7</sup> But we have the explanation of Aristophanes of Byzantium, that the Cretan *apodromos* was a young man still excluded from the public athletic exercises (*dromoi*).<sup>8</sup> Hence the common and satisfactory rendering, 'minor'; satisfactory, because the word-order of VII.35 ff. shows that the word *ebion* is there intended to qualify *apodromos*, to indicate that what is envisaged is

<sup>1</sup> *Phl. Leg.* 22.

<sup>2</sup> Rouse GVO 240; Robertson Smith RS 248; Frazer GB I.I.368; Grönbech CT I.123; Thomson AA 108.

<sup>3</sup> Thomson *ibid.*

<sup>4</sup> Michell S 170.

<sup>5</sup> But cf. Guarducci IC 4 p. 150.

<sup>6</sup> Hsch. ἀπάγελοι σκότιοι.

<sup>7</sup> Cf. e.g. ἀνελκόμενος. The point requires emphasis because of the analogous force to be attached to ἀπό- in ἀπάγελοι and, more important, in ἀπέναιρος.

<sup>8</sup> In Eust. 1592.58: ἐν Κρήτῃ ἀποδρόμος (καλοῦσι τοὺς ἡβήβους) διὰ τὸ μὴ δέσσει τῶν κοινῶν δρόμων μετέλχειν.



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the minor who has reached the age of puberty. If no qualification were implied, there would be no point in using both terms.<sup>1</sup>

It is generally agreed that *dromeus* means an adult ('a runner'), and although the exact age at which a youth became a *dromeus* is uncertain, it must have been at about twenty.<sup>2</sup> The young man was then a citizen, of whose legal responsibilities as a witness,<sup>3</sup> and with regard to property, the Code gives us some idea;<sup>4</sup> and *dromeis* are mentioned in other cities as citizens in their own right.<sup>5</sup> The term implies the right to exercise in the public gymnasium; and also that, having now passed out of the *agela*, the young man could become a member of the *andreion* ('men's house'), as one of the male citizen adults known as *hetairaias*. An inscription from Malla<sup>6</sup> associates the *hetairaias* with the *dromos* ('gymnasium'). The term *dromeus* itself recalls the Spartan *sphairaias* (a term 'indicating not only the age and status of the competitors, but also the character of the contest in which they were victorious'),<sup>7</sup> found in a series of inscriptions of the Roman period, and also mentioned once by Pausanias, in a passage where he refers to the Spartan *dromos*.<sup>8</sup> The most likely interpretation is that the term *sphairaias* in Sparta referred to a definite age-group,

<sup>1</sup> Despite this objection, it has been maintained that the terms are synonymous, signifying the young man who has just entered the *agela* (Guarducci IC 4 p. 150; cf. Jeannaire OC 426); or that *apodromeus* applies to the young man between fifteen and eighteen years of age (DHR I 407). These explanations take tautology for granted in VII.35 ff., as indeed we must if we press the technical sense of ἐφήβους in the explanation of Aristophanes (n. 8 p. 11). It is more likely that he used the term loosely, or incorrectly, in this case.

<sup>2</sup> After the eighteenth year DHR I 408; the twentieth Guarducci IC 4 p. 150; 'une autre désignation des ἐφήβους', Jeannaire OC 426.

<sup>3</sup> Free *dromeis* are specified as competent witnesses in cases specified in Col. I 41 f.; III 22; V 53.

<sup>4</sup> Children must be *dromeis* who consent to sale and mortgage of certain family property in Col. VI 36; and when the groom-elect who is a *dromeus* refuses to marry the heiress, special regulations are laid down concerning the property in Col. VII 41; see further Ch. IX.

<sup>5</sup> IC I.VIII 13.8 (treaty between Hierapytna and Knossos) 2nd C. a.c.; ib. XVI.5.44 (treaty between Lato and Olous) 2nd C. a.c.

<sup>6</sup> Ib. XIX.3 A.41 2nd C. a.c.

<sup>7</sup> Tod *Ball Players at Sparta* ABSA X 73. Tod considered that 'the name was directly derived from *σφαίρα* and points to some kind of ball-game as forming a prominent element in the training of those who reached this age' . . . Chrimes (AS 132) prefers a derivation from *σφαίρα* = 'a boxing-glove'.

<sup>8</sup> III.14.6: Καλοῦσι δὲ Λακεδαιμόνιοι Δρόμον, ἔθθα τοῖς νέοις καὶ ἐν ἡμῶν ἐν δρόμῳ μελέτη καθίστηται . . . ἔστι δὲ δῶγμα ἀρχαῖον Ἡρωκλέους, ὃ θέουσιν οἱ Σφαίρες; οἱ δὲ εἰσι οἱ ἐκ τῶν ἐφήβων ἐς ἀνδρας ἀρχόμενοι συντελεῖν.

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from twenty-four to thirty.<sup>1</sup> Certainly some limitation appears to be implied. But this is not the case with *dromeus*. The term is general, just as *apodromos* seems to be general. In fact, a general use of these Cretan terms is what is naturally to be expected. For, while the names of a fair number of Spartan age-grades have been preserved, this is not the case with Crete, except where puberty and the period of transition from youth to manhood are concerned.<sup>2</sup>

Our main source of information about the organization of the Cretan youth is Strabo's account, which was taken over from Ephoros.<sup>3</sup> After stating that those who came out of the *agela* were obliged to marry at the same time, this account further informs us that the 'boys' had to learn their letters and also what is described as τὰς ἐκ τῶν νόμων ᾠδὰς καὶ τινα εἶδη τῆς μουσικῆς ('lays from the laws and certain forms of music'). 'Those still younger' were taken to the *sysitia*, where they sat together on the ground to eat their food, wearing the same poor garments in summer and winter, and waiting on the men as well as themselves. Grouped according to *sysitia*, each group under the charge of a *païdonomos*, they contested with each other and with other *sysitia*. The 'older boys' were taken into the *agelai*, which were organized by the most influential notables among them, each collecting as many boys as possible. The leader of each *agela* was generally the father of the organizer, who was responsible for leading them to the hunt and to the foot-races, and for punishing the disobedient. They were fed at the public expense. On certain fixed days the *agelai* contended with each other, to the accompaniment of flute and lyre, as was their custom in actual warfare.

We know from a gloss of Hesychios (ἀγελάστους ἐφήβους, Κρητες)<sup>4</sup> that these bands were analogous to the organizations of citizen novices in other states. In one inscription from Eleutherna,<sup>5</sup>

<sup>1</sup> Mitchell S 172. Cf. Chrimes AS 132 and Tod *ib.* 72.

<sup>2</sup> Strabo's vagueness is significant (10.482-3): παῖδας δέ—τοὺς μὲν αὖν ἐτι νεωτέρους—οἱ δὲ μείζους. A gloss of Hsch. gives some slight ground for supposing that adult ages were counted in terms of *dromos*: δεκάδρομοι· οἱ δέκα [ἔτη] ἐν τοῖς ἀνδράσι ἐσχυρότεροι, ἐπὶ Κρητῶν. Guarducci reads πεντηκαιδεκάδρομος in the Code, XI 53. Cf. X. HG 3.4.23: Τὰ δέκα ὄφ' ἤβης, and 6.4.17: Τῶν τετραπέοντα ὄφ' ἤβης; and also the meaning 'finito ephebie tempore ex agela exire' which it seems necessary to attach to the word ἐγδραμεῖν (IC LXVI.5.21 and Guarducci *ad loc.*).

<sup>3</sup> 10.482. Cf. Ath. 4.143; Nic. Dam. fr. 115; Heraclid. Pont. 3-4.

<sup>4</sup> Corrected by Cohn to ἀγελά(τας)· τοὺς ἐφήβους or to ἀγελά(ους)· τοὺς ἐφήβους: DHR I 407 n. 3. (The word ἀγελάοι occurs in the inscription from Dreros IC LIX.1 A.11.) But Guarducci's simple ἀγέλας· τοὺς ἐφήβους (IC 2.XII.26.3.4.165) is preferable.

<sup>5</sup> IC 2.XII.26.4. The term is commonly understood to refer to leaders of the *agelai*.



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those so organized are termed ἀγελᾶται. A Hesychios gloss (ἀπάγελος· ὁ μηδέτοι συναγελαζόμενος παῖς. ὁ μέχρι ἑτῶν ἑπτακαιδέκα. Κοῆτες) shows that the youths did not form their own communities until the end of their seventeenth year and gives us the term applied to the boy who had not yet entered the *agela*. If this gloss were our sole source of information we might conclude that *païs* had the same general significance as *apodromos* appears to have had. But Strabo's account, in spite of the vagueness of its terminology, distinguishes children, boys, and novices of the *agela*. We can infer, both from Strabo and Athenaios, that *paides* were boys in their teens<sup>1</sup> who had not yet joined the *agela*, not including, as Nilsson supposed,<sup>2</sup> the *epheboi*. These are the οἱ . . . μέλζοντες of Strabo and the ἔφηβοι of the Hesychios gloss.

Hence we can infer that the term *apageloi* was at least restricted to *paides*. But it has been maintained by Jeanmaire<sup>3</sup> that its meaning is even more restricted and that it is a special term relating to the adolescent in the period immediately preceding entry into the *agela*, this interpretation being based upon the Hesychios gloss ἀπάγελος· σκότιοι. A scholiast on Euripides (*Alkestis* 989) says that in Crete the boys were called *skotioi* because they lived in the women's apartment. But, as we have seen from Strabo's account, this was not even entirely true of the children, at least after the age, probably, of about seven. It is likely then that Jeanmaire correctly supposed that *skotioi* was a suitable term to apply to boys who were about to undergo the crucial transition from boyhood to manhood, involving a period of seclusion outside the city for two months.<sup>4</sup> Although we do not know what happened during these two months,<sup>5</sup> it is clear, from the gifts of a warrior's costume, an ox and a drinking-cup, which the boy received from his lover when he returned to the city, that he had now entered upon the first stages of manhood.<sup>6</sup>

Comparing the Cretan organization of boys with the Spartan,

<sup>1</sup> Cf. Hp. *ap. Ph.* 1.26; X. *Smp.* 4.17; Cyr. 8.7.6, 1.2.4; Censor. *De die natali* 14.8; LSJ 1.2.2. παιδῶν; μειράκιον; παῖς.

<sup>2</sup> GSL 314.

<sup>3</sup> Jeanmaire OC 426.

<sup>4</sup> Str. 10. 483. Cf. Pl. *Lg.* 686 c.

<sup>5</sup> Cf. however Jeanmaire OC 453-4.

<sup>6</sup> Cf. Thomson AA 106. Jeanmaire has elsewhere argued against the military origin of the Spartan κρηπίτις. (*La Crète Lacédémonienne* in REG XXVI (1913) 212-50. Cf. Ferguson *The Zulus and the Spartans* in HAS II (1918) 179.) He prefers, arguing from a wealth of comparative evidence, to suppose an origin from the retreat into the countryside as a necessary stage of the long process of initiation into manhood. So that we may reasonably compare σκότιος with κρηπίς; (κρηπίτις).

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Nilsson observed<sup>1</sup> that the Cretan conditions revealed in part greater antiquity owing to the seclusion and smallness of the towns, but at the same time some loss of ancient practice owing to their weakness. The observation is more correct than the explanation. Even if we confine ourselves to the development of commerce and written law,<sup>2</sup> it is clear that such a city as Gortyna was, in the first half of the fifth century, less secluded from the main stream of development of Greek civilization than was Sparta in the same period. It is possible to find social features of greater antiquity in Crete if they are considered in isolation. But when they are examined within the more general context of Greek historical development, their apparent antiquity assumes relative proportions, and they can then be considered not so much as survivals, serving little or no organic purpose, as important features invested with new content, and with new purposes. In Crete they continued to be deeply rooted in the social life of the citizen classes, a necessary part of the social structure which had replaced the more primitive phases in which they were originally fostered. Archaic in form, they became as modern in content as the institutions they had been harnessed to support allowed them to be. This principle should be more clearly apparent after the discussion of tribal nomenclature in the next chapter, though it cannot be properly substantiated until the whole survey is completed.

Meantime, we must return to Nilsson's comparison, which is prefaced by a summary of his view of the organization of the Spartan youth. His conclusion was that a consideration of all the evidence seems to give the following picture. Boys of different ages lived under the supervision of an *eiren*, eating and sleeping together as members of a community corresponding to the *sysskenion*. A number of such communities was united to form an *ile*, and this was under the command of a particularly capable *eiren*. These communities crossed those of the age-classes; each age-class was divided into *bouai*, at the head of which stood *bouagoi* of the same age. Instruction in gymnastics, however, was given by *eirenes*; two or more *bouai*, each under the command of its *bouagos*, fought in the *agones* under the supervision of an *eiren*.<sup>3</sup>

<sup>1</sup> GSL 314.    <sup>2</sup> For more general considerations see Van Effenterre CMG Ch. 1.

<sup>3</sup> Michell (S 168 and n. 1.) considers that when the boy entered the *naidlos* class at the end of his sixth year, he 'was enrolled in one of the juvenile platoons or *ilai* which probably were subdivisions of the companies or *bouai*, to make up the full regiment or *agele*'. Referring to Nilsson's view of the *ile*, he rightly considers that it is impossible to come to a definite conclusion.



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Nilsson found it significant that, in Crete, education during childhood seems mainly to have required the attendance of the boys at the men's meals, where they waited upon their seniors, and that they did not form their own communities until the end of their seventeenth year. The breaking down of old custom owing to the growing influence of the individual may, he argued, be seen in the fact that the *agelai* were to a certain extent of a private nature, where the most distinguished and most powerful *epheboi* each gathered around themselves as large a number of followers of their own age as possible, the participants being fed out of public resources, hunting, racing, and holding warlike exercises in common. The common obligation to marry on completion of this last stage of education impressed him as a feature of great antiquity; and finally, he cited the so-called oath of the Drerians (which will be discussed in some detail later) as an example which shows that the *epheboi* took an oath when they left the *agela* and were received among the men.

We have seen that the evidence of the Code shows when and why the general rule of the ceremonial marriage of all those belonging to the same age-grade could be broken. Important as this exception is historically, it is not only at this point that primitive custom had been trespassed against. Our information concerning the Cretan *agela* makes it clear that this custom remained primitive in so far as it was collective, but in other respects it had become restrictive—how restrictive will appear when other institutions have been examined. In the same way, although the more communal organization of the Cretan *syssitia*, as compared with the Spartan, appears to be more primitive, its form of organization was, in fact, possible only because, as we shall see, the state apparatus in Crete was more highly developed and allowed of a centralized system of control of tribute from the serfs.<sup>1</sup> As is clear from Strabo's account, the primitive *agela* had been adapted to prevailing conditions. Its continuing importance is proved by the widely attested references in inscriptions to the annual<sup>2</sup> oath of the youths before the magistrates, the *kosmoi*;<sup>3</sup>

<sup>1</sup> Arist. Pol. 1272 a. Cf. Cha. XV and XXII.

<sup>2</sup> Jeatmaire (CG 426) has maintained, in view of the restricted character of the *agela*, that it probably comprised youths of varying ages. As he pointed out, the same kind of thing happened elsewhere. It may have eventually happened in Crete. But in the absence of evidence the assumption should not be prematurely made.

<sup>3</sup> Knossos (IG I.VIII.13, 2nd C. B.C.); Dreros (ib. IX.1 C, 3rd-2nd C. B.C.);

## THE GORTYN CODE

by the respect paid to it in funerary inscriptions;<sup>1</sup> and by the honour paid by the young men themselves to their *archos*.<sup>2</sup> This survival of an initially primitive form of organization in changed social conditions proves its value in the newer conditions and likewise testifies to the degree to which the institution itself was capable of being adapted to different purposes. We may compare the various forms of organization of younger boys in Sparta, also of a primitive character, which continued to survive, partly because Sparta remained for so long at a more backward level, partly because certain of its institutions, even when adapted to changed conditions, remained more genuinely collective. The survival of much of the detailed Spartan nomenclature of age-grades, compared with the vagueness of Strabo and Athenaios regarding such matters in Crete, is significant in this respect.

The account in Strabo of the Cretan educational system, of which the *agela* had come to form such an essential feature, corresponds so well with the Platonic account in the *Laws* that both must be presumed to reflect unchanged institutions.<sup>3</sup> The collective organization, instruction limited to essentials, military education by means of physical exercise, the music, the warriors' songs, hunting and mock warfare, all under the supervision of the adults, and compulsory marriage on arrival at manhood: all these details derived from Ephoros recall Plato, and confirm the stability of educational practice in the fourth century. The inscriptions of the Hellenistic period show that the system continued to function long afterwards, for reasons which will be suggested when the evidence is examined.

Therefore it is hardly surprising that the age-distinctions firmly rooted in the social and educational practice of the Cretan citizen classes are so definitively featured in the Gortynian Code of the fifth century. They were tenacious and active survivals from a more primitive social order whose wider manifestations will be examined in the next chapter.

Lato (*ib.* XVI.5, 2nd C. B.C.); Malla (*ib.* XIX.1, 3rd C. B.C.); Lyttos (*ib.* XVIII.9 and XVI.3, 2nd C. B.C.); Olous (*ib.*); Hierapytna (*ib.* 3.III.1 B, 3rd C. B.C.).

<sup>1</sup> Polythénia (*ib.* 2.XXIII.20, 3rd-2nd C. B.C.); Itanos (*ib.* 3.IV.38, 1st C. B.C.).

<sup>2</sup> Axos or Eleutherna (*ib.* 2.XII.26, 2nd C. B.C.).

<sup>3</sup> Van Effenterre CMG 86-7. See further Ch. XV.



## II

### TRIBAL NOMENCLATURE

JUST as the youth were organized in *agelai*, so the male citizen adults had their corresponding organization, equally designed to regulate their social life: διήθηται δ' οἱ πολῖται πάντες καθ' ἐταιρίας, says Dosiadas.<sup>1</sup> The institution of the *hetaireía* is as remarkable as the *agela*, but much less persistent. However, before its history is discussed, it is necessary to take note of a related institution: εἰσὶ δὲ πανταχοῦ κατὰ τὴν Κρήτην οἴκοι δύο ταῖς συσσιτίαις, ὧν τὸν μὲν καλοῦσιν ἀνδρεῖον, τὸν δ' ἄλλον ἐν ᾧ τοὺς ξένους κομίζουσι κοιμητήριον προσαγορευοῦσι as Dosiadas explains.<sup>2</sup> Jeanmaire<sup>3</sup> has pointed out that the warrior community—the ancient *laos*—survived the disappearance of the monarchy, forming, as citizens in the newer social order, a caste which followed the profession of arms, and occupying itself with sports. Their social life, outside the *dromas*, the equivalent of the gymnasium in other Greek cities, was concentrated in the *andreion* and the *koimeterion*. For, although, according to Dosiadas, the second of these places was designed as a lodging for the guests of the city, Jeanmaire concluded that it is equally probable, as the name itself indicates, that it was also designed as the nightly lodging of a part of the male population. He pointed to what Herakleides said of the youth: καὶ τὰ πολλὰ κοιμῶνται μετ' ἀλλήλων,<sup>4</sup> as a probable reference to the youth of the *agelai*. The evidence of Ephoros is all-important here: γαμεῖν μὲν ἅμα πάντες ἀναγκάζονται παρ' αὐτοῖς οἱ κατὰ τὸν αὐτὸν χρόνον ἐκ τῆς τῶν παίδων ἀγέλης ἐκκριθέντες, οὐκ εὐθὺς δ' ἄγονται παρ' ἑαυτοῦς τὰς γαμηθείσας παῖδας, ἀλλ' ἐπὶ ἤδη διοικεῖν ἱκαναὶ ὡσι τὰ περὶ τοὺς οἴκους.<sup>5</sup> Jeanmaire understood the first part of this statement to show that the young men married when they ceased to be enumerated among the *paides*, that is to say when their ephebic training began, an inter-

<sup>1</sup> *Ap. Ath.* 4.143 b.

<sup>2</sup> *Ibid.* 4.143 c.

<sup>3</sup> CC 423.

<sup>4</sup> *PHG* 2.312.

<sup>5</sup> *ap. Str.* 10.482.

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pretation which we have seen good reason to reject. But, with the qualification that the young men married when they left the *agelai*, Jeanmaire's general view of the purpose of the *koimeterion* as a probable sleeping-quarter for the youth has much in its favour. For we must, in any case, infer from Ephoros that some time elapsed after marriage before the men lived at home with their wives, and therefore they themselves must either have slept in their parents' homes, or in some such central place as the *koimeterion*. Since they were organized in *agelai*, it is a reasonable inference that they not only lived but also slept together. We must bear in mind too that the marriageable age of girls was twelve, on the evidence of the Gortynian Code,<sup>1</sup> and although we are not told at what age they were considered to be capable of managing a household, we may suppose that it was some years after that age. In the same source<sup>2</sup> a reference is made to the man taken in adultery with a free woman in the house of her father or her brother, which reinforces this conclusion.

The separation of the young couple has its parallel in Sparta<sup>3</sup> where, for a long time after marriage, the man passed his days and nights with companions of his own age, only visiting his wife furtively and sometimes even becoming a father before he had looked upon her in daylight. It was not until he was thirty that he began to enjoy all the natural privacies and rights of citizenship.<sup>4</sup> On the strength of this direct and indirect evidence we may at least agree with Nilsson<sup>5</sup> that the Cretan sleeping-house was originally not used for strangers only, and that such was perhaps not its exclusive function even well into the historical period.

The abundant anthropological data which provide parallels with the Cretan *andreion* and *koimeterion*, and explain these and similar Spartan customs in terms of the primitive tribal institutions of initiation and the Men's House, have been collected in works sufficiently well-known<sup>6</sup> to render repetition unnecessary here. But Hutton Webster's description of the Men's House<sup>7</sup> will serve as a general illustration:

'The Men's House is usually the largest building in a tribal settlement. It belongs in common to the villagers; it serves as a council chamber or town hall, as a guest-house for strangers, and

<sup>1</sup> XII.34.

<sup>2</sup> GSI. 324.

<sup>3</sup> PSS I f.

<sup>4</sup> II.22.

<sup>5</sup> Nilsson GSI.; Jeanmaire CL.; Thomson AA Ch. VII.

<sup>6</sup> *Pha.* I, 3c. 15.

<sup>7</sup> *Ibid.* 25.



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as the sleeping resort of the men. . . . When marriage and the exclusive possession of a woman do not follow immediately upon initiation into the tribe, the institution of the Men's House becomes an effective restraint upon the sexual proclivities of the unmarried youth. It then serves as a club-house for the bachelors. . . . An institution so firmly established and so widely spread may be expected to survive by devotion to other uses, as the earlier ideas which led to its foundation fade away. As guard posts where the young men are confined on military service and are exercised in the arts of war, these houses often become a serviceable means of defence. The religious worship of the community often centres in them. Often they form the theatre of dramatic representations. . . . The presence, then, in a primitive community of the Men's House in any one of its numerous forms points strongly to the existence, now or in the past, of secret initiation ceremonies.'

In the Cretan *andreion* were the tables at which the members of the *hetaireiai* took their communal meals, attended also by the male children.<sup>1</sup> Jeanmaire<sup>2</sup> drew attention to the fact that the simplicity of these arrangements is testimony not only of their archaic nature, but of the numerical insignificance of the dominant class, since only citizens could be members of the *hetaireiai*. The term *andreion* was also applied to the *hetaireia* which gathered there—*ἑταιρίας, καλοῦσι δὲ ταύτας ἀνδρείαα*, as Dosiadas says; and also to the meal which was the occasion of their meeting: *ἐν τοῖς συσσιτίοις, ἃ καλοῦσιν ἀνδρείαα*, as we know from Ephoros.<sup>3</sup> How the *syssitia* were maintained is made clear by Aristotle,<sup>4</sup> and by Dosiadas<sup>5</sup> with particular reference to Lyttos. In this system of maintenance Jeanmaire<sup>6</sup> saw the continuation of the old principle whereby the ancient *laos* had been sustained at the expense of the community, its twofold character being well defined in Crete. To the dues received from a part of the population was added a fixed portion of the product of the estates of the wealthy citizens

<sup>1</sup> Dosiad. *ap.* Ath. 4.143c.

<sup>2</sup> CC 423.

<sup>3</sup> *Ap.* Str. 10.480.

<sup>4</sup> *Pol.* 1272 a: . . . ἐν δὲ Κρήτῃ κοινοσίτῳ ἀπὸ πάντων γὰρ τῶν γινομένων καρπῶν τε καὶ βοσκημάτων δημοσίων καὶ ἐκ τῶν φέρον οὓς φέρονται οἱ περίοικοι τέτακται μέρος τὸ μὲν πρὸς τοὺς θεοὺς καὶ τὰς κοινὰς λειτουργίας, τὸ δὲ τοῖς συσσιτίοις, ὥστ' ἐκ κοινοῦ τρέφεσθαι πάντας, καὶ γυναῖδας καὶ παῖδας καὶ ἀνδρας.

<sup>5</sup> *Ap.* Ath. 4.143 a-b: ἕκαστος τῶν γινομένων καρπῶν ἀναφέρει τὴν δεκάτην εἰς τὴν ἑταιρίαν καὶ τὰς τῆς πόλεως προσόδους ἃς διατέμνουσιν οἱ προσεστρηότες τῆς πόλεως εἰς τοὺς ἑκάστου οἰκον. τῶν δὲ δοῶτων ἕκαστος Ἀθῆναιον φέρει στατήρα κατὰ κεφαλὴν.

<sup>6</sup> CC 424.

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themselves. The two means of upkeep have their origin in the ancient institutions of the *geras* and the *kleros*, the principal sources of revenue of the 'king's men' of the monarchical period,<sup>1</sup> which have an earlier history of great importance in the development of property.<sup>2</sup> Aristotle preferred the Cretan system because it was more communal than the Spartan. In Crete all citizens, men, women and children, were maintained out of these public funds, whereas in Sparta each citizen who did not pay his fixed poll-tax was prevented from taking part in the government. But the Cretan communal practice was only formally archaic, because the sphere of its practice had become so restricted. What was communal to the minority of citizens was exclusive of a much greater proportion of the whole population. The *geras* and the *kleros* survived, in a form which confirms and yet denies their primitive character, adapted to the growth of a state apparatus.

*Sysitia* were to be found in Miletos and Thourioi,<sup>3</sup> Megara,<sup>4</sup> Thebes,<sup>5</sup> Oinotria,<sup>6</sup> Carthage<sup>7</sup> and Lipara.<sup>8</sup> The common meals of the sect of the Essenes were thus described;<sup>9</sup> and it has been suggested<sup>10</sup> that a relic of the practice survived in the *agape* or love-feast of the early Christians. The analogy<sup>11</sup> of the 'bachelors' house' which still survives in many of the Pacific Islands may be added to similar parallels to which reference has been made. But it is in Sparta<sup>12</sup> that we find most evidence to support the view of their primitive origin and to support their classification with similar institutions in the anthropological record. For Xenophon does not use the words *phaiditia* or *sysitia* but has instead *syskenion*, with the related noun *syskenos* and verb *syskenein*.<sup>13</sup> The feast of the kings is called *σκηρή δημοσία*;<sup>14</sup> their surrounding company is called *οἱ περὶ τὴν δημοσίαν*; and there is the Hesychios gloss *συσσκαρία* *συσστίον*. What was called a tent-community was not always a community which merely fed together. The Doric form

<sup>1</sup> CC 424.

<sup>2</sup> Thomson SAGS; (*geras*) 329-33, 345; (*kleros*) 327, 333; Poehlmann GSFSAW I 54-61; Jeanmaire *ibid.* n. 2.

<sup>3</sup> Pl. *Lg.* 636 b.

<sup>4</sup> Thgn. CCCIX.

<sup>5</sup> Polyæn. 2.3.11.

<sup>6</sup> Arist. *Pol.* 1329 b.

<sup>7</sup> According to Arist. *ib.* 1272 b.

<sup>8</sup> D.S. 5.9.4.

<sup>9</sup> Ph. *Quod omnis probus* XII.86 (458).

<sup>10</sup> By Michell S 287.

<sup>11</sup> Pointed out by Holland Rose POG 122.

<sup>12</sup> Cf. Nilsson's argument GSL 316.

<sup>13</sup> See further LSJ 136.

<sup>14</sup> X. *Lac.* 15.4: *ὅπως δὲ καὶ οἱ βασιλεῖς ἔξω σκηρῶν, σκηρὴν αὐτοῖς δημοσίαν ἀπιδούε.*



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of the gloss, coupled with Xenophon's familiarity with Spartan conditions—even though these had markedly changed since early times—leave no doubt that these were terms actually used in Sparta. The words were then often used in the sense in which one of them is glossed by Hesychios, so that they can be understood as referring to a community which fed together and no longer to a community which actually lived in tents together. Nilsson argued that since this was inexplicable from normal Greek linguistic usage, it could only be comprehended from the Spartan conditions, where all that survived of the tent-community—as far as the older men were concerned—was the communal feeding. The use of the word *skene* for 'feast', 'meal', 'provisions',<sup>1</sup> is thus explained. Warfare preserved something of the ancient meaning, as we see from Herodotos and Polyainos.<sup>2</sup>

Aristotle<sup>3</sup> makes it clear that the Spartans in older times had used the term *andreion* for *syssition*. Strabo,<sup>4</sup> pointing out that the *syssitia* were still called *andreia* by the Cretans, stated that among the Spartans they had ceased to be called by that name as they had been in earlier times, and quoted Alkman<sup>5</sup> in support. King Archidamos used the same term.<sup>6</sup> Aristotle and Archidamos used the term in the sense of 'men's meal'. The Alkman fragment could equally well mean either the same, or a building. Still in general use in Crete, it is once definitely attested in its original meaning of 'men's house', in the passage already quoted from Athenaios (. . . οἶκοι δύο ταῖς συσσιτίαις, ὧν τὸν μὲν καλοῦσιν ἀνδρείον κτλ.).

All this evidence then shows that the custom of the men living and sleeping together was once firmly established in Sparta and Crete. We have seen how, in Crete, on the evidence of Dosiadas, the *hetaireia* is closely associated in meaning with the *andreion*. We must also take note of the Hesychios gloss: *ἑταιρείος*: Ζεὺς ἐν

<sup>1</sup> Twice in X. Cyn. 2.3.1; 4.2.34.

<sup>2</sup> Hdt. 1.65.7: μετὰ δὲ τὰ ἐς πόλεμον ἔχοντα, ἐνωμοτίας καὶ τρηκάδας καὶ συσσίτια, πρὸς τε τούτοις τοὺς ἐτρόπον καὶ γέροντας ἱστίοις Ἀντιόδεος. Polyain. 2.3.11: Ἀσπιδωμόνιοι μὲν οὖν κατὰ λόχους καὶ μόρας καὶ ἐνωμοτίας καὶ συσσίτια στρατοπαίδεοντες ἔμαθον τὸ πλεῖθος τῶν ἀπολωλότων. 2.1.15: περιπέμπων ἐν ταῖς τοῖς ἀνὰ τὰς σιβάδας καὶ τὰ συσσίτια.

<sup>3</sup> Pol. 1272 a.

<sup>4</sup> 10.482.

<sup>5</sup> φρίδας δὲ καὶ ἐν θαλάσσιον | ἀνδρείων παρὰ δακτυμένους πρέπει πινῆναι κατὰρχιν.

<sup>6</sup> Plu. Archid. Lw. 218 d: καὶ γὰρ δαπανηθήσεται πλείων καὶ ποιήσει τὰ ἀνδρείον ἀχρηστότερα.

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*Kρήνη*; and the evidence of a number of inscriptions. *Hetaireiai* are twice<sup>1</sup> mentioned in an inscription from Dreros in connection with the payment of fines and, as we have seen, an inscription from Malla<sup>2</sup> associates the *hetairees* or members of the *hetaireia* with the *dromos* in a regularly celebrated festival. All of which has been taken<sup>3</sup> to be sufficient in itself to establish that the *hetaireia* or *andreion* was found all over Crete; that the *hetaireiai* admitted only citizens; and that they all honoured the same god, 'Zeus of the *hetaireiai*'.

The evidence of the Code throws sufficient further light to enable us to comprehend the true character of the institution within the Gortynian social system. The *hetaireia* at Gortyna, like the Athenian phratry, celebrated with a feast the adoption of a son by one of its members.<sup>4</sup> For it was decreed that the adoption should occur in the market-place, in the presence of the assembled citizens, the adopter presenting to his *hetaireia* a sacrificial animal and a quantity of wine.<sup>5</sup> Hence the *hetaireia* is analogous to the Athenian phratry,<sup>6</sup> and has consequently been described as a guardian of the state, a basis of the whole political organization at Gortyna, as in the rest of Crete, since, as witnesses of the presentation of sons of their fellow-citizens, the members of the *hetaireia* guaranteed the legitimacy of their birth.<sup>7</sup> But there were important differences from Athenian custom.<sup>8</sup> Whereas the members of the Athenian phratry were dispersed over Attica, the members of the Cretan *hetaireia* normally lived in the town;<sup>9</sup> the citizen town-dwellers were masters of the serfs who cultivated the land outside. The members of the Athenian phratry had their reunions only on rare occasions; in Crete they took their meals together.

<sup>1</sup> IC LIX.1 C.124, D.195. Perhaps also in an archaic inscription from Dreros: Van Effenterre, *Inscriptions Archaiques Crétoises* in BCH LXX (1946) 597.

<sup>2</sup> IC LIX.3 A.41.

<sup>3</sup> DHR I 410. Guarducci would assign the meaning of the building rather than the *hetaireia* to ἀνδριον in the Gortynian inscription IC 44-4, the later Gortynian inscription *ibid.* 75 B.7. In an early inscription from Axos, IC 2. V.18 and 15, the spelling is ἀνδριον.

<sup>4</sup> CE Ch. VIII.

<sup>5</sup> Col. X.34-9.

<sup>6</sup> Bücheler-Zitelmann 55; DHR I 411.

<sup>7</sup> DHR I 411.

<sup>8</sup> *Ibid.* Why the Athenian phratry was rendered politically impotent by the legislation of Kleisthenes has been explained by Thomson AA 205-8.

<sup>9</sup> The inscription from Dreros which contains the oath has the following instructions:—ταῖς ἐκταταῖς δατοῖσθαι ταῖς ἐν πόλει καὶ αἱ πόλιν οὐραῖον(τ) δροῖον (IC LIX.1 C.124-7). But though some citizens might be outside the city on garrison duty, it was the city that remained the centre of the *hetaireia*.



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The importance of the institution is further emphasized by the solemnity marking the passage from the *agela* to the *andreion*; by the existence of a 'judge of the *hetaireia*';<sup>1</sup> and by the very existence of the term denoting a class of non-citizens, *apetairoi*.

The *hetaireia* then has been shown to be analogous to the Athenian phratry. The linguistic data reinforce the connection and suggest, as indeed we might expect from our examination of the *syssition*, that the term has its origin in primitive tribal kinship terminology.<sup>2</sup> The linguistic data relating to the Greek phratry have been explained by Thomson with reference to the classificatory system of relationship on the basis of the conclusions reached by Kretschmer, who worked solely on the internal evidence.<sup>3</sup> His explanation may be partly summarized thus. The IE *\*bhrātēr*, 'brother', has survived in that sense in all the derivative languages except Greek and Hittite; and the IE *\*syesōr*, 'sister', has survived in all except Greek and Modern Albanian. These three languages are known to have been deeply affected by non-IE speech. The Greek derivatives of IE *\*bhrātēr* and *\*syesōr* are *phrater* and *eor*. The first of these is used to denote a fellow-member of the phratry; the second survives only in a gloss of Hesychios. The Ionian *phrateres* (and the Dorian *kasioi*) were originally, in each generation, the sons of the same father, the sons of the father's brothers, the sons of the father's father's brother's sons and so on: they were brothers in the classificatory sense.

The Greek for brother and sister is *adelphos* and *adelphē*, properly *phrater adelphos* and *eor adelphos*, a brother or sister 'of the same womb', as opposed to (*phrater-eor*) *opatros*, a brother or sister 'by the same father'. After their entry into the Aegean, the Greek-speaking peoples adopted matrilineal descent, and the new significance of *phrater* and *eor* was indicated by the use of descriptive epithets which eventually supplanted them. They retained, however, the patrilineal organization of the phratry, and in that connection the term *phrater* survived. The women had no organization corresponding to the phratry, and consequently the term *eor* disappeared.

<sup>1</sup> τῶν ἡταιρητῶν δικαστής: IG 4.42 B.12.

<sup>2</sup> Boisacq *s.v.* ἡταροί. Buck CGLG 313 discusses the back-formation of ἡταροί, earlier ἡταροί, from feminine ἡταιρά, originally *\*ἡταρ-ja*.

<sup>3</sup> AA 28 and 30, SAGS 145. This analysis of the IE terminology was endorsed by Benveniste in BSLP XLVI (1950) 20-22. Cf. generally Isachenko in *Slavia* 22.1 (1953) 43-80.



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In historical times in Attica, in the period of the patriarchal landowning aristocracy, the policy of that aristocracy was to keep the phratries closed, when immigrants could only acquire civic rights by obtaining admission to the phratries.<sup>1</sup> This corresponds to the position at Gortyna as revealed in the laws. The *hetaireia* is a closed corporation of male citizens, with privileges and status denied to the *apetairoi*, and other classes. We saw how the adoptive son had to be publicly proclaimed by the adopter before his fellow-citizens in the market-place, a ceremony which was the occasion of a feast. At Athens, when a boy came of age, he was formally admitted to his father's phratry at the feast of the *Apatouria*, which means 'the feast of men of the same fathers'.<sup>2</sup>

But the evidence shows that, as opposed to the *agelai*, the Cretan *hetaireiai* were rapidly losing their importance.<sup>3</sup> They played a part of considerable importance at the time of the Gortynian legislation, in the middle of the fifth century, an importance which has been reasonably supposed to be reflected in Plato's *Latos*.<sup>4</sup> Afterwards, the name seems to have become progressively obscured, as the purpose of the *hetaireia* became more and more confined to the communal meals. The statement of Dosiadas, *διήρηγται οἱ πολῖται πάντες καθ' ἑταιρίας, καλοῦσι δὲ ταύτας ἀνδρεία*, has been said<sup>5</sup> to show clearly that in Cretan usage the abstract term, current in early times, was being abandoned for the concrete term derived from the place where the men assembled for the *syssitia*, an inference partly confirmed by the fact that *ἑταιρία* only occurs twice in Hellenistic inscriptions, at Dreros and Malla; and that there is no allusion to *hetaireiai* in Ephoros and Aristotle, who mention only the *syssitia*, civil associations centred around the communal meals, also called *andρεία*.

Van Effenterre has made clear the evolution of the *syssitia* as depicted by Plato, Ephoros and Aristotle.<sup>6</sup> Plato connects the *syssitia* with camp life.<sup>7</sup> An absolute obligation is attached to communal living, to sleeping as well as eating, any infringement being treated as treachery.<sup>8</sup> The young married men are not exempt from this regime.<sup>9</sup> Its severity recalls the Spartan system as described by Plutarch,<sup>10</sup> and has its Cretan parallel in the statement of Ephoros that the young men, when leaving the *agelai*,

<sup>1</sup> Thomson AA 200.

<sup>2</sup> Mommsen FSA 323-49; Thomson AA 26, SAGS 145.

<sup>3</sup> Van Effenterre CMG 87.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> CMG 88-9.

<sup>7</sup> *Lg.* 623 c.

<sup>8</sup> *Ib.* 762 c.

<sup>9</sup> *Ib.* 780 b.

<sup>10</sup> *Lyc.* 15.

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were married, but did not immediately live with their wives. But Ephoros only writes of communal meals; so that there is a diminution in communal living as compared with Plato. The *syssitia*, for Ephoros, are a means of civil organization useful primarily for the education of the youth. In the *syssitia*, the boys are instructed in the service of their elders, in hard living, in fighting. Aristotle is concerned with the common meals, and with the material and economic aspects of this institution. Hence a clear line of evolution is revealed in these three accounts. For it is difficult not to believe that Plato's account is inspired by the primitive Cretan system; that Ephoros depicts an intermediate stage when the men have been freed from the more stringent obligations, but are concerned with the educational aspects of the system; that by the time of Aristotle the system had become no more than a practical means of maintaining the food supply of the citizens and their families, further illustrated by the details to be gathered from post-Aristotelian historians of Crete.

Certain conclusions which followed from the earlier argument tend to reinforce and amplify this conception. In the first place, etymological evidence confirms the inference that Plato was drawing on a real primitive structure, originally tribal. Secondly, vague Cretan terminology and the comparison with the relatively detailed system of Spartan age-grades confirm the tendency, deduced from Ephoros, for the *syssitia* to become responsible for educational functions, for which no self-contained organizations of the boys existed until they joined *agelai*, and which might well have existed earlier, if we again draw upon the Spartan comparison. Thirdly, the Gortynian legislation points to the political importance which the primitive tribal organization of the *hetaireia* was assuming in the aristocratic system, in its passage from an association based on kinship to a closed corporation based on narrow restricted political rights of citizenship. The narrow basis of the *syssition*, at once a relic and usurper of the *hetaireia*, is shown by the fact that, whereas in Sparta each *sysskenion* had its own building, the Cretan *hetaireiai* ate together in a single building, the *andreion*, in the time of Dosiadas.<sup>1</sup>

The maintenance of the food supply of the participants of the Cretan *syssitia* from public funds was praised alike by Plato<sup>2</sup> and Aristotle.<sup>3</sup> In Sparta the costs were covered entirely by the con-

<sup>1</sup> *Ap. Ath.* 4.143 c.

<sup>2</sup> *Lg.* 849 b, 847 c.

<sup>3</sup> *Pol.* 1271 a, 1272 a.



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tributions of the participants, and those who could not maintain their contributions were deprived of benefits. Aristotle's preference for the Cretan system was shared by Ephoros.<sup>1</sup> (The mutual self-interest of the Cretan ruling class is attested by Aristotle in a different connection, when he explains why no serf revolts had occurred in Crete.)<sup>2</sup>

The inscriptional evidence testifies to the degree to which the maintenance of *syssitia* became a concern of the state,<sup>3</sup> and Aristotle<sup>4</sup> shows how the communal practices of a minority had become based on the exploitation of a majority of the population.

The clan, the phratry (a group of clans), the tribe (a group of phratries), are organically related, as the ancient authorities testify<sup>5</sup> (treating Greek *genos*, *phratría* and *phylé* as equivalent to Latin *gens*, *curia* and *tribus*), and as the anthropological record confirms. Certain analogies are established between the Athenian phratry and the Gortynian *hetaireia*. What of the related institutions?

The tribe is so named (*πυλά*), as a still active institution, and women were enumerated in it. Such is the inference we may draw from the evidence of the Code,<sup>6</sup> and also from the wording of the treaty between the cities of Hierapytna and Priansos,<sup>7</sup> where, among other privileges, that of *ἐπιγαμία* (intermarriage) is granted to all those who are tribal kinsfolk: (*ὅσοι καὶ ἔσονται ἐμφυλίοι<sup>8</sup> παρ' ἑκατέρου*). In the Code, the members of the tribe have the right of marriage to the heiress in certain circumstances: (1) when the heir or heirs refuse to marry her; (2) when she refuses such a marriage and is willing to sacrifice part of her inheritance; (3) when there are no heirs-at-law; (4) when she is already married and decides on divorce after becoming an heiress. She does not become able to marry freely except when no member of the tribe is willing to marry her. That this prior tribal claim is considered to be important is made clear by the provision that when no

<sup>1</sup> *Ap. Str.* 10.480. See further Ch. XV.

<sup>2</sup> *Pol.* 1259 b. See further Ch. XV.

<sup>3</sup> See Ch. XIV.

<sup>4</sup> *Pol.* 1272 a.

<sup>5</sup> *Arist. fr.* 385; D.H. *AR* 2.7.3, 6.89.1; *Plu. Rom.* 20, *Foetl.* 7, D.C. 1-34, 5-9. Discussed by Thomson SAGS 106 and compared with CAH 3.584-5 and 3.688.

<sup>6</sup> *Col.* VII-VIII. The *πυλά* is probably first mentioned at Gortyna in one of a group of inscriptions dating from mid-7th to 6th C. B.C. (IG 4.19.3: - καὶ πύλας - - suppl. Compagetti; cf. *ib.* 104: 480-50 B.C.). Cf. the mention in an archaic inscription from Dreros which implies that the tribe was a politically active institution (BCH LXX 590).

<sup>7</sup> IG 3.III.4, now dated by Guarducci to beginning of 2nd C. B.C.

<sup>8</sup> An earlier form *ἐμφυλός* is attested at beginning of 3rd C. B.C.: *ib.* IV.1 B.5.



## PRIMITIVE FOUNDATIONS

tribal member has presented himself to marry the heiress, her parents are obliged to make a declaration to the tribal members and allow a period of thirty days for a claimant to present himself.

What is the explanation of this provision? The tribal organization is now, of course, confined to the free citizen body, forming privileged sections of the community. Hence this provision can be regarded as a reiteration of the primitive rule of tribal endogamy, but now designed to keep property within the restricted circle of the citizen class. If we knew more about the tribal organization in these times we might be in a better position properly to pose and perhaps answer the question which now arises. Why, when the state organization has cut across the tribal organization, when tribal members have become a privileged citizen body, is the right of marriage confined to fellow-members of the tribe of the heiress? Perhaps the easiest explanation is to suppose that the tribal divisions of land were still preserved.<sup>1</sup>

The clan seems clearly to be referred to as *startos*,<sup>2</sup> a Cretan form of the familiar word *stratos*.<sup>3</sup> It is explained in a gloss of Hesychios: *Σταγροί αἱ τάξεις τοῦ πλῆθους*. In one passage of the Code,<sup>4</sup> reference is made to the time when Kyllós and his colleagues of the *startos* of the Aethalians composed the *kosmos*, the body of chief magistrates: *αἱ δὲ ὁ Αἰθ[α]λῆς (σ)ταγρός ἐκόσμου οἱ σὺν Κύλλῳ*. The terms *startos* and *kosmos* both go back to the stage in which tribal institutions were adapted to warfare, a fact well attested in such words as *στρατιά*, *στρατεία*, *στρατεύω*, *στρατᾶσθαι*, *στρατιώτης*, *στρατόπεδον*, etc., by the Homeric use of *κοσμέω*, and the echo of the Homeric *κοσμήτορες λαῶν* preserved in the inscriptional use of *kosmeteres* meaning *kosmoi*;<sup>5</sup> by the use of the earlier word *startagetes*,<sup>6</sup> for which *protokosmos*<sup>7</sup> is later sub-

<sup>1</sup> This would also have a bearing on the provision of the treaty between Hierapytna and Priansos, IC 3.111.4.18-21 (*ἰξέστω δὲ τῶν | τε Ἱεραιπυτνίων σπείραν ἐν τῷ Πριανσίῳ καὶ τῶν Πριαν|σιῶν ἐν τῷ Ἱεραιπυτνίῳ διδῶσι τὰ τίλας καθάπερ οἱ ἄλλοι | πόλιν κατὰ τὸς νόμος τὸς ἐκατέρῃ καίμενος*), on which Guarducci comments: 'Videntur igitur et Hierapytnii et Priansii agros publicos habuisse, quod de omnibus Graeciae civitatibus omni tempore adfirmari nequit; hi vero agri in singulos annos (hoc enim e verbi *σπείραν* usu colligi posse apparet) civibus, indicto tributo, colendi tradebantur, quod privilegium nunc et consociatae urbis civibus conceditur.'

<sup>2</sup> Βυζαντζ λ.σ. Cf. DHR I 415.

<sup>3</sup> For the metathesis cf. *Φιλόσταγρος* for *Φιλόστρατος*, IC 4.171; and *σταρταγέτας* for *στραταγέτας*, *ib.* 80.

<sup>4</sup> Col. V.

<sup>5</sup> IC 4.80.4.

<sup>6</sup> IC 3.IV (Itanos) 3.22; 4.14; 6.8; 7.34. 3rd C. n.c.

<sup>7</sup> Found e.g. *ib.* 293.9; 300 A.6; 309.3.

## TRIBAL NOMENCLATURE

stituted; and recalled by Aristotle,<sup>1</sup> *καὶ τὴν ἡγεμονίαν οἱ κόσμοι τὴν κατὰ πόλεμον ἔχουσιν*, and Hesychios: *κόσμος* - - στρατηγός κεκοσμημένος.

*Startos* is also found mentioned in an inscription from Lyttos<sup>2</sup> of the Imperial epoch, where a distribution (of money?) among the *startai* is mentioned. At Gortyna there is a probable further mention of *ὁ Αἰθαλεὺς σταρτός*,<sup>3</sup> and *startos* and *startagetes* are found together in the Gortynian decree concerning the Rhittensians.<sup>4</sup> According to Aristotle,<sup>5</sup> the *kosmoi* were drawn 'from certain clans'. Thus, in the time of Aristotle, this body of chief magistrates was chosen, as Calhoun says,<sup>6</sup> from 'certain privileged kinship groups, and a council of elders made up, like the council of the Areopagus, of former magistrates'.

The Gortynian law of inheritance can only be explained with reference to another primitive institution, the 'household', Greek *oikos* and Roman *familia*, a group of blood relations within the wider circle of the clan, consisting of the founder and his children, his sons' children, and the children of his sons' sons. The origin of the *oikos* was explained by Seebohm,<sup>7</sup> and has more recently been fully discussed by Thomson.<sup>8</sup> Their studies illustrate the importance of the *oikos* in the history of Greek land tenure and emphasize the close connection between the *oikos* and the *kleros*, the 'lot' or family estate, as we shall see.

<sup>1</sup> *Pol.* 1272 a.

<sup>2</sup> IG LXVIII.11.1.

<sup>3</sup> IC 4.142.2.

<sup>4</sup> *Ib.* 80.

<sup>5</sup> *Pol.* 1272 a.

<sup>6</sup> GCLAG 109. Cf. DHR I 414-18.

<sup>7</sup> SGTS 54-5.

<sup>8</sup> SAGS 109-11, 139, 153, 313-14, 323.





## PART TWO

### THE CLASSES

When that the general is not like the hive,  
To whom the foragers shall all repair,  
What honey is expected? Degree being vizarded,  
Th'unworthiest shows as fairly in the masque.  
The heavens themselves, the planets, and this centre,  
Observe degree, priority and place,  
Insisture, course, proportion, season, form,  
Office, and custom, in all line of order.

SHAKESPEARE





### III

## THE FREE

CRETAN institutions of the historical period, as we have seen, had their roots in primitive tribal institutions. Though tribal society as such had long passed away, its forms, terminology and influence survived, as they persistently survived all over the Greek world well into the historical period. The tribal institutions themselves, undergoing successive changes, had now been adapted to serve the purposes of a quite different social and economic system. The evidence of the Code, supplemented by other data, enable us, not only, as Calhoun has said, in discussing the aristocratic character of the system, to 'trace with some confidence the general outline of the constitution':<sup>1</sup> we can also ascertain certain characteristic features of a social and economic system which present important analogies with the pre-Solonian state in Attica, and with the Spartan state of the historical period.

The primary feature is economic, social and political inequality. Four main classes of the population are distinguished. These are the slaves, the serfs, the *apetairoi* and the free. The relative importance of these classes in the social scale is indicated by the scale of fines for certain offences, which can be extracted from the information supplied in the Code.<sup>2</sup>

#### (a) Rape<sup>3</sup>

|   |              |
|---|--------------|
| 1. Against a free person                | 100 staters  |
| 2. Against an <i>apetairos</i>          | 10 staters   |
| 3. By a slave against a free person     | 200 staters  |
| 4. Against a serf by a free person      | 5 drachmas   |
| 5. Against a serf by a serf             | 5 staters    |
| 6. Against a virgin household slave     | 2 staters    |
| 7. Against a non-virgin household slave | 1 or 2 obols |

<sup>1</sup> GCLAG 108.

<sup>2</sup> Col. II 2-16.

<sup>3</sup> Reproduced from DHR I 419.

## THE CLASSES

### (b) *Adultery*<sup>1</sup>

|   |   |
|---|---|
| 1. With a free woman <sup>2</sup>       | 100 or 50 staters                         |
| 2. With the wife of an <i>apetairos</i> | 10 staters                                |
| 3. A slave with a free woman            | Slave pays double<br>(200 or 100 staters) |
| 4. Slave and slave                      | 5 staters                                 |

The amount of evidence required for conviction is similarly disproportionate as between the various classes,<sup>3</sup> and in some cases freemen only are competent witnesses.<sup>4</sup> The age-distinctions and forms of social organization peculiar to the free citizen class have already been discussed. We must now proceed to define certain other characteristics of privilege peculiar to this class, before going on to define the status of other sections of the community.

The free man, participating in the social and educational organizations already described, and enjoying the benefits of membership of the *hetairaiai*, was called *eleutheros*. Normally he would be the offspring of a free man and a free woman, *eleuthera*. The *eleuthera* was 'free' because she was a member of a tribe, joined by ancient ties of kinship to a social organization which had now become restricted to a politically and economically privileged minority. She had become, however, less free than the *eleutheros* in a number of ways which will be examined later. But in one respect, historically of importance, her name of *eleuthera* was fully justified by her ability to bestow freedom on others in rather unusual circumstances.

The Gortynian Code allowed regular marriages not only between individuals of equal status—free or serf—but also between a free woman and a man who was not free: but not, however, it would appear, between a free man and an unfree woman, since no mention is made of the possibility.<sup>5</sup> In the paragraph<sup>6</sup> which defines the status of the children of such a marriage, it is laid down

<sup>1</sup> Col. II 21-7.

<sup>2</sup> 100 staters if in the father's, brother's or husband's house; 50 staters if in any other house.

<sup>3</sup> Cols. I, II. Cf. III-IV.

<sup>4</sup> Cols. I, III, V.

<sup>5</sup> The Hammurabi Code recognized as legally binding a marriage contracted between an unfree man and a free-born woman; and although the former, with all his possessions, was legally the property of his master, the children born of such a marriage were free (para. 175). The children of master and slave were freed after the father's death. Nor is anything said in this Code about a marriage between a free-born man and an unfree woman. See Mendelsohn SANE 56, 76, 104, 122.

<sup>6</sup> Col. VII 1-10. The text is somewhat uncertain, but its purport is clear. Cf. DHR I 405.



## THE FREE

that if the unfree man lives with the free woman the children are free; but if the free woman goes to live with the man, the children are not free. It follows that a woman who married twice could have free and unfree children, a possibility that is envisaged by the law.<sup>1</sup>

The regular word *dolos* is used in the paragraph to signify the unfree. As we shall see, *dolos* is used to mean both 'slave' and 'serf'. It is important to try to elucidate its exact meaning here. The matter is not capable of definite proof, but it may be suggested that marriage between a free woman and a serf only is envisaged, and this for a number of reasons, of which the most cogent is perhaps that the verb *opuien* is used of the relationship. The Code uses *opuien* and *opuiethai* regularly to denote legal marriage.<sup>2</sup> It has been doubted whether *opuien* can bear that meaning here.<sup>3</sup> But if the possibility of legal marriage with slaves is excluded, it becomes even less possible to question a meaning which is so clearly established. Since the marriage relationship between slaves did not exist, there is good reason to suppose that *opuien* was not used of a relationship between a free woman and a slave.

Greek history affords a number of famous examples of the free-woman-serf relationship,<sup>4</sup> of which the most persistently documented concerns the legend of the Spartan Partheniai.<sup>5</sup> These particular instances happen to have survived in ancient historical records because of the unique importance of their consequences. We may be sure that similar relationships were at one time neither rare nor isolated, a conclusion which is borne out by the necessity of the Gortynian provision. As we have already had occasion to notice,<sup>6</sup> the law recognized, in the last resort, the

<sup>1</sup> *Ibid.*

<sup>2</sup> *δωλεῖν*: Col. VII 30, 33, 36, 37, 43, 46; VIII 14, 16-17, 23, 37. *δωλεῖσθαι*: Col. VII 16, 20-1, 23, 26, 42-3, 52, 54; VIII 5-6, 12, 19, 23-4, 26, 28-9, 33, 39-40; XII 17-18. *δωλεῖσθαι*: Col. III 19. *δωλεῖσθαι*: Col. VIII 32; etc.

<sup>3</sup> Guarducci IG 4 p. 162.

<sup>4</sup> See Plb. 12.6 b on the colonization of Lokroi Epizephyrioi. Cf. the *παρθενιαῖοι* at Sikyon, Theopomp. *ap.* Ath. 6.271 c, d.

<sup>5</sup> Ant. *ap.* Str. 6. 278-9; Ephor. *ap.* Str. 6. 279-80; Theopomp. *ap.* Ath. 6. 271 c, d; Arist. *Pol.* 1306 b; Plb. 12.6 b; D.S. 8.21; Just. 3.4.20.1; Paus. 10.10; Serv. *ad* Verg. *A.* 3.551. *Georg.* 4.125; Thomson SAGS 200; Michell S 85-8. The ancient written tradition lasts over some 800 years, and its development seems to indicate a growing inability to comprehend the conditions of an earlier period when free-born women could possibly have been involved with their unfree inferiors in the events described.

<sup>6</sup> P.10 and n. 2.



## THE CLASSES

lingering rights of serf tenure—a testimony to the correctness of Aristotle's observation that the older population of Crete continued to observe the laws of Minos.<sup>1</sup> The Minoan tradition may have been still operative in this particular marriage relationship. For there is a strong probability that Minoan institutions were, to a degree yet to be clearly defined, matrilineal. That a serf's children could be free if their mother was free, in fifth-century Gortyna, can be said to testify to the lingering strength of these traditions. That freedom for the children was assured only if the marriage was matrilocal supports the matrilineal interpretation—at the same time exacting some compensation for the compromise made by the Dorian settlers with the institutions of their subjugated serfs.

The free man could, in certain circumstances, lose his freedom. The Code makes mention of a seized person who has been condemned for debt (*nenikamēnos*), or who has mortgaged his person (*katakreimēnos*).<sup>2</sup> The passage is important as providing evidence that at Gortyna, as in Rome and in pre-Solonian Attica, the insolvent debtor could be enslaved by his creditor.<sup>3</sup> The *katakreimēnos* was one who pledged his person to guarantee the payment of a debt, the equivalent of the Roman *nexus* and the *δανεισάμενος ἐπὶ σώματι* of pre-Solonian Attica. Such a person, like the *in mancipio* at Rome, would be *in loco servi*, not *servus*.<sup>4</sup> More will have to be said about the *nenikamēnos* and the *katakreimēnos* when we turn to consider the slaves.

Consideration of the status of the free man in the family and in the state apparatus will be deferred until the topics of the family and the state are separately discussed.

<sup>1</sup> Pol. 1271 b. Cf. Thiel in M 57 (1929) 193 ff.

<sup>2</sup>Cols. I 56-II 1. Cf. IX 25 and XI 32.

<sup>3</sup> This right of the creditor was recognized by the Sumerian law, by the Hammurabi Code, by the Assyrian law, and by the Jewish law. Mendelsohn SANE 26 and 32.

<sup>4</sup> DHR I 487. Cf. IC 4-41 V, VI; ib. 47.

## IV

### THE APETAIROI<sup>1</sup>

THE *apetairoi* were a class of free men with a status markedly superior to that of the serfs, but equally inferior to that of the free citizen class. They were free in the sense that they were neither bonded nor enslaved. As their name implies, they were excluded from the *hetaireiai* and consequently were deprived of the full political rights enjoyed by the citizen body. So much is clearly established by that section of the Code which informs us of the fines for rape and adultery. But when we begin to consider the more precise composition of the *apetairoi* we are faced with a number of difficult questions. The most important of these questions is whether the *apetairoi* included a class of *perioikoi* like those in Sparta. The ancient literary evidence is not clear about the matter, which has been disputed since the discovery of the Code, and general agreement cannot yet be said to have been reached.<sup>2</sup> But Larsen has convincingly shown that the Cretan *perioikoi* ought to be enumerated among the *apetairoi*.<sup>3</sup>

Larsen sought to establish that there existed in Crete a class of subject communities with local self-government similar to the *perioikoi* in Sparta. He based his study largely on epigraphical evidence, pointing out that, although it has often been held that there were *perioikoi* in Crete, most discussions have been based too exclusively on the literary sources. Aristotle in the *Politics*<sup>4</sup> used the term *perioikoi* to denote a class corresponding to the Spartan helots, thus appearing to imply that Crete had no class

<sup>1</sup> The word was already known from Poll. 3.58: Παμπόνηροι δὲ οἱ Θεοπόμπου τοῦ ἀνιγγραφῆως ἀπολῖται καὶ ἀπέταιροι καὶ ἀπαθηναῖοι.

<sup>2</sup> 'Tout ce que l'on peut dire-en examinant cette fois les conditions réelles et non plus seulement les dénominations—c'est qu'il y avait plusieurs degrés d'inférieurs, au-dessous du citoyen de plein exercice.' Van Effenterre CMG 93.

<sup>3</sup> CP XXXI (1936) 11 ff.; also art. in RE s.v. *Perioikoi*. Cf. however Guarducci RF XIV (1936) 356 ff. Larsen's view is emphatically endorsed by Jeannaire OC 424 n. 3.

<sup>4</sup> 1269 b, 1272 a, 1272 b.



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which could correspond to the Spartan *perioikoi*. Sosikrates stated that the Cretans used the term *περίοικοι* for their *ἐπήκοοι*: *Σωσικράτης δ' ἐν δευτέρῳ Κρητικῶν τὴν μὲν κοινὴν, φησί, δουλεῖαν οἱ Κρητὲς καλοῦσι νομοῖαν, τὴν δὲ ἰδίαν ἀγαμῶντας, τοὺς δὲ ἐπηκόους περίοικους.*<sup>1</sup> Dosiadas is also said to have agreed with Sosikrates.<sup>2</sup>

But, as Larsen pointed out, there is another passage of Aristotle in which the term *perioikoi* is used, completely ignored in most statements about Cretan *perioikoi*, which, although it cannot be cited as definite proof for the existence of a distinct class of Cretan *perioikoi*, does make it incorrect to use Aristotle as contrary evidence and to oppose him to Sosikrates. The passage reads: *διὸ καὶ νῦν οἱ περίοικοι τὸν αὐτὸν τρόπον χρῶνται αὐτοῖς, ὡς κατασκευάσαντος Μίνω πρώτου τὴν τάξιν τῶν νόμων.*<sup>3</sup> Grote thought that the word referred to 'surrounding neighbour states',<sup>4</sup> which is possible. But, with the proviso that there is probably a specific reference to the *perioikoi* of Lyttos rather than to those of Crete generally, Larsen argued that Jowett's interpretation—'Perioeci, or subject population of Crete'—must be correct. Even if we were faced with a choice between Sosikrates and Aristotle, it would be advisable to accept Sosikrates, since he wrote a special account of Crete.<sup>5</sup> Larsen was surely right to add that we should naturally expect Crete to contain a number of subject communities.

Having thus assessed the literary sources, Larsen maintained that the existence of *perioikoi* in Crete receives full confirmation from the inscriptions, the evidence from Gortyna being most complete. There is firstly the fifth-century inscription concerned with sacrificial rites and apparently providing special regulations for *περίφοι*.<sup>6</sup> It seems natural to suppose that *perioikoi* are indicated here. But, owing to the rare occurrence of the word,<sup>7</sup> those who deny the existence of a class of *perioikoi* can maintain that the reference is to serfs. That is not possible in the case of the *ἐπάβοικοι* who are mentioned in the Hellenistic treaty between Gortyna and

<sup>1</sup> *Ap. Ath.* 6.263 f. The MS. reading *τοὺς δὲ περίοίκους ἐπηκόους* was corrected by Dobree.

<sup>2</sup> *Ap. Ath.* 6.264 a.

<sup>3</sup> *Pol.* 1271 b.

<sup>4</sup> *HG II* 484 n. 2.

<sup>5</sup> Cf. however Van Effenterre *CMG* 94-5.

<sup>6</sup> Larsen follows Halbherr and Blass (*AJA I* (1897) 162 ff. = *SGDI* 4990). Also Van Effenterre *CMG* 91. But cf. Guarducci *RF XIV* (1936) 358 n. 4 and *IG* 4.65 p. 121.

<sup>7</sup> Larsen pointed out that *ταῖς δὲ περίοίκους* is found in an Athenian inscription in Cretan dialect (*SGDI* 5148 = *IG. II<sup>2</sup>*, 1130) and considered it likely that the decree contained special regulations for perioeci.



## THE APETAIROI

Lato,<sup>1</sup> referring to a class of subjects of Gortyna who can be sued by the citizens of Lato as by the Gortynians. Though serfs could apparently initiate a suit against their masters in certain cases, serfs and slaves were normally represented in court by their masters.<sup>2</sup> It is therefore not likely that citizens of another state could start a suit against a serf rather than against his master. So that *ἐπόβουκοι* cannot refer to serfs. That *ἐπόβουκοι* can thus be identified with *perioikoi* lends support to the view that the earlier mentioned *περίφοικοι* were similar.<sup>3</sup>

In an inscription<sup>4</sup> which is rather older than the Code, we learn that *Γόρτυνς ἐπέτασα ὅτι οἱ ἐν Ἀφίῳ φοικλοντες* give a number of privileges to one Dionysios, including exemption from taxation, the right to sue in the same courts as citizens,<sup>5</sup> and a house and land in Aulon. A possible explanation of the joint grant is that Aulon was a perioecic community with its own local government and taxes.<sup>6</sup>

A later inscription,<sup>7</sup> in which Gortyna legislates for the island of Kaudos, contains such similar phraseology as *οἱ τὰν Καῦδον φοικλοντες*, and Kaudos is definitely classified by Larsen as a perioecic community.<sup>8</sup> This important inscription, and others relevant to the view of the *perioikoi* maintained here, will be further discussed.

The interpretation that can be placed upon the literary evidence, and the evidence of the inscriptions, make it possible to suppose that *perioikoi* were common enough at Gortyna to lead us to expect them to appear in the Code, although they are not there named as such. It is natural therefore to classify them among the *apetairoi*,<sup>9</sup> a title embracing others than *perioikoi*, which explains why they are not referred to as *περίφοικοι*.<sup>10</sup>

What other categories of persons can be enumerated among the

<sup>1</sup> IC LXVI.1.38. Cf. Poll. 6.113: *ἐποικιστῆς* = *γέροντες*. *ἐπόβουκοι* for *ἐπόφοικοι* Buck GD 44.

<sup>2</sup> DHR I 425.

<sup>3</sup> It is possible that the usage may have varied at different times, but it is also possible that both terms were used at the same time, depending on whether one wished to emphasize that the perioeci dwelt round about or that they were subjects.<sup>7</sup> Larsen 13.

<sup>4</sup> IC 4.64.

<sup>5</sup> *φατρία δίκαια*.

<sup>6</sup> Larsen's view, 14. Also Lipsius. Guarducci considers that not perioeci but citizens are meant, RF XIV (1936) 361 and IC 4 p. 119.

<sup>7</sup> IC 4.184 (3rd C. B.C. Larsen, 2nd C. B.C. Guarducci).

<sup>8</sup> But cf. Guarducci *ad loc.*

<sup>9</sup> Larsen 18; Halbherr AJA I (1897) 165; Meyer GA II 275. <sup>10</sup> Larsen 19.

## THE CLASSES

*apetairoi*? The class must have included, in addition to *perioikoi*, all those who were excluded from the *hetaireiai* and were therefore in a politically inferior position, but who enjoyed a relatively free economic status, at least in so far as they were neither bonded nor enslaved. This is a loose definition which has to be used with caution. It is easier to suggest than to justify the claims for inclusion among the *apetairoi* of others than *perioikoi*.

The suggestion that the *apetairoi* included metics and freedmen<sup>1</sup> can be rejected. The metics came under the jurisdiction of the special courts for foreigners, *κσνελα δία*,<sup>2</sup> and of the *κσνιος κόςμος*, an official who is often named in Gortynian inscriptions.<sup>3</sup> From one of these,<sup>4</sup> we can infer that freedmen were classed with metics, perhaps because of the artisan status of both.

This latter inscription is a decree of the Gortynians relating to freedmen, who are granted the right of living in a special region of the city, Latosion, their freedom of person and property being matters of concern for the *κσνιος κόςμος*. The exact provisions of the decree are difficult to establish,<sup>5</sup> but it can be inferred from the financial penalties involved—compared, for instance, with those given in the Code for rape and adultery, which have already been discussed,<sup>6</sup> and with those laid down for unlawful seizure<sup>7</sup>—that the persons thus protected must have been relatively privileged and of some special concern to the state.

Since the jurisdiction of the *κσνιος κόςμος* is involved, and these freedmen are given the same rights as others—*ἐν τῷ φίλῳ* [*καὶ τῷ ὄμῳ*]<sup>8</sup>—it is reasonable to suppose that these others were metics and that Latosion was a quarter specially reserved for metics.<sup>9</sup> These metics would be on an entirely different footing from the strangers mentioned in Dosiadas and Pyrgion.<sup>10</sup> The same kind of difference is observed by Plato when he discusses the foreigner who may live in the land and become a metic, practising an art,<sup>11</sup> as distinct from the four sorts of strangers who may come from abroad for temporary visits.<sup>12</sup> In attempting to assess the status of these dwellers in Latosion, it is useful to bear

<sup>1</sup> DHR I 420-2. Rejected by Larsen 18. Merriam, AJA I (1885) 343, had decided that internal evidence excluded the possibility.

<sup>2</sup> DHR I 421; Kohler-Ziebarth 44; Busolt GS 487 n. 2; Larsen 19.

<sup>3</sup> IC 4 14 8-p; 30; 53 A; 72 XI; 76; 89<sup>2</sup>; 144.

<sup>4</sup> *ib.* 76.

<sup>5</sup> See the discussion in IC 4 p. 180.

<sup>6</sup> Pp. 33-4.

<sup>7</sup> Col. I.

<sup>8</sup> DHR I 420-1, 492-3; Guarducci IC 4 p. 181.

<sup>9</sup> *Ap. Ath.* 143 c-f.

<sup>10</sup> *Lg.* 850.

<sup>11</sup> *ib.* 952 d-953 e.



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in mind Aristotle's statement that craftsmen, meaning free artisans, are in a condition of limited slavery.<sup>1</sup>

That metics and freedmen were domiciled in Latosion in the first half of the fifth century may perhaps be inferred from the badly mutilated inscription dating from that period, in which Latosioi are first mentioned.<sup>2</sup> Two other inscriptions of the same century are important in this connection. The earlier<sup>3</sup> consists of the end of a law or decree defining the relations between the state of Gortyna and some craftsmen or hired workmen. Mention of the *ksenios kosmos* makes it appear likely that metics or freedmen are again concerned. Mention is also made of rations of barley, figs, wine and other things, perhaps constituting the annual rations of each man.<sup>4</sup> The same pay is fixed for free men(?)<sup>5</sup> and for slaves working in the city: *φεργάδδ]εθαι δὲ ἐπὶ τῷ μ[ι|σ]τῷ αὐτῷ πάν[τ]α [τοῖς || ἐμ πόλι φ]οικίλοναι το<τ>ς [τ'ἐλ]εuthέροις καὶ το[ῖς δδλ]οις (7-12). Refusal to work incurred a fine of ten staters, exacted by the *ksenios kosmos* and paid to the state. Double the amount was exacted if the simple fine was not paid.*

The later inscription<sup>6</sup> is on the same lines, makes it clear that the provisions are allotted by annual amount, gives the same basis for pay, and lays down the same penalty for infringement.

Mention must also be made here of two other inscriptions, one from Axos,<sup>7</sup> and the other from Eleutherna.<sup>8</sup> The condition of the first inscription is such that we can gather with reasonable certainty only that it laid down conditions between the state of Axos and some workers who may have come in or been brought in from outside, and who, it seems, are to be fed at public expense and given immunity from certain tributes. The Eleutherna inscription mentions a special kind of worker, *sisyropeioi* (presumably makers of goat's-hair cloaks), and may have contained regulations for their pay.<sup>9</sup>

It is possible that the free artisans of these inscriptions were freedmen, at least in the case of Gortyna, perhaps also in the case of Axos and Eleutherna. The coupling of free men (freedmen?)<sup>10</sup>

<sup>1</sup> Pol. 1260 a 37. Cf. ib. 1267 b 15; 1277 b 1; 1278 a 17; 1291 a 1; 1319 a 26; 1326 a 22; 1328 b 39; 1329 a 19; 1331 a 33.

<sup>2</sup> IC 4.58 and Guarducci *ad loc.*

<sup>3</sup> *Ib.* 79.

<sup>4</sup> Guarducci *ad loc.*

<sup>5</sup> Rather freedmen, as I think.

<sup>6</sup> IC 4.144.

<sup>7</sup> *Ib.* 2.V.1.

<sup>8</sup> *Ib.* XII. 9.

<sup>9</sup> So Guarducci *ad loc.*

<sup>10</sup> '[ἀπελ]εuthέροις iniuria supplevi, contra Comparetti et Blass qui [τ'ἐλ]εuthέροις apte restituerant.' Guarducci *ad IC* 4.79.10 f. But if my argument is correct, the case for [ἀπελ]εuthέροις is strong.



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and slaves in the phrase: *ἑργάδδεσθαι δὲ ἐπὶ τῷ μισθῷ αὐτοῖς κτλ.* and the phraseology of the clause laying down the penalty for not doing the work: *αἱ δὲ μὴ λελούεν ἑργ[γάδδε]σθαι κτλ.* give ground for suspecting that the kind of work involved constituted some kind of forced labour. Men who were not slaves, but were subject to such compulsion, could not be termed fully free.

It is when we consider the conditions obtaining elsewhere in antiquity that it becomes possible to suppose that these artisans were freedmen. In an article<sup>1</sup> devoted to the examination of the status of those who were neither slave nor free in the Greco-Roman world, Westermann pointed out that the priests of Apollo at Delphi conceived of individual liberty as the possession of four things: legal status as a protected member of the community; immunity from arbitrary seizure or arrest; freedom of economic activity; and right of unrestricted movement.

'About one fourth of the Delphic grants of liberty,' writes Westermann,<sup>2</sup> 'present trust sales to the god and contain a contractual arrangement between the new freedman and his former master, called in the Greek a *paramone* clause. The freed person therein agrees to continue to carry on certain services toward his former owner. Most frequently these obligations are contractually set for the life expectancy of the owner who had sold his slave in trust to the god. As a matter of fact these life expectancies were customarily reduced to a period of from two to ten years, as we know from more than twenty releases of freedmen from their contractual undertakings for the former owner. . . . In the Greek temple manumissions the services actually represent a part of the payment made by the freedman for his liberty.' In such *paramone* manumissions the freed person must continue to live in the city or town of the ex-owner in order to carry out the necessary obligations to him. The *paramone* manumission, Westermann considers, explains the statement of Aristotle that craftsmen live in a condition of limited slavery. 'He did not need to amplify the idea for his Greek readers. Expanded it meant that the artisan, when he made a work contract, disposed of two of the four elements of his free status, but by his own volition and for a temporary period.'<sup>3</sup>

Now it could be argued that the workers mentioned in these inscriptions were free men of some sort who had made such a temporary work contract for a project involving the employment

<sup>1</sup> AHR L no. 2 (1945) 213-27.

<sup>2</sup> *Ib.* 217.

<sup>3</sup> *Ib.* 218.

## THE APETAIROI

of both free and slave labour. This interpretation would explain why free and slave received the same payment, and also the insertion of the clause relating to breach of contract. But whilst the interpretation might indeed apply to Axos and Eleutherna, there are indications in the internal evidence of the Gortynian inscriptions which make it more likely that freedmen are involved in the work contracts, and which, in certain respects, recall the familiar conditions of *paramone* manumission.

In the inscription where freedmen are explicitly mentioned (IC 4.78), their legal status as protected members of the community and their immunity from arbitrary seizure are alike emphatically stated: *καταφοιζίδεσθαι Λατόσιον ἐπὶ τῇ φίσφαι [καὶ τ]ῇ ὁμοίᾳ, καὶ μέτιστα τοῦτον μέτε καταδολό[θαι μέτε σπλῆν*. But, although they are placed on a footing of equality with the existing inhabitants of Latosion (*ἐπὶ τῇ φίσφαι [καὶ τ]ῇ ὁμοίᾳ*), their confinement to that quarter deprives them of the right of unrestricted movement and presumably of their freedom of economic activity. But there is no indication that they have surrendered these two elements of their free status by their own volition and for a temporary period. Such restrictions would be natural for metics, but unusual for free men, unless they were free only by virtue of accepting such restrictions, or, in other words, if they were freedmen—unless conditions of manumission in Crete were entirely different from those obtaining elsewhere.

Since the existence of a special quarter for artisans is established, it is probable that the two inscriptions defining the relations between state and workers (IC 4.79 and 144) refer to inhabitants of Latosion, so that they would be either metics or freedmen. However, since their rations are computed on an annual basis, we may perhaps infer that they were freedmen bound for service over a lengthy period, such service possibly forming part of the terms of their manumission.

Such terms of manumission with continuing bondage service might well have been granted entirely by civil action, as opposed to trust purchase through a god. For there is no evidence that any significance is to be attached in this connection, at least at the time of the inscriptions, to the fact that the freedmen are to live in Latosion.<sup>1</sup> The inscriptions define relations between freedmen

<sup>1</sup> On the derivation of the name from a temple of the goddess, see DHR I 492; Guarducci *ad loc.*



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and state. This cannot in itself be taken to imply that the state was the original owner of the freedmen. Apart from the absence of internal evidence to suggest such a possibility, we may bear in mind that Plato in the *Laws*<sup>1</sup> describes the freedman as being subject to state regulation and as continuing to owe certain obligations to his former owner. Moreover, there was an increasing tendency, fully developed under the Roman Empire, for the state to bind workers to fixed localities. 'The peasants of the empire were eventually nailed down at the place of their *origo*, their nativity. Then came, in its turn, the binding of the *collegiae*, the craftsmen groups.'<sup>2</sup> The effect was to 'widen(ed) enormously the expanse of the social and economic area between slavery and freedom and confined therein a much greater proportion of the subject population than ancient slavery had ever done'.<sup>3</sup> We may view Latosion as an embryo of this development. It is also worth noting that, as Latosion embraced metics and freedmen on an equal footing, so does the passage of Plato's *Laws* referred to above: 'The freedman shall not remain in the state more than twenty years, but like other foreigners (i.e. metics<sup>4</sup>) shall go away, taking his entire property with him, unless he has the consent of the magistrates and of his former master to remain.'

Consideration of the several Gortynian decrees of manumission<sup>5</sup> has not been included in the above discussion, because they occur either two or three centuries later. All are civil acts of manumission, several<sup>6</sup> relating to public<sup>7</sup> slaves freed by the state; two others<sup>8</sup> concern the manumission of the slaves of private persons. Several mention the payment of a tax of manumission to the state within a period of twelve days. Since these decrees were all found in the same place, the present village of Mitropolis, there is some possibility that this was the ancient Latosion.<sup>9</sup>

It is therefore clear that, although they cannot be counted among the *apetairoi*, freedmen constituted a distinct class of some importance.

<sup>1</sup> *Lg.* 915.

<sup>2</sup> Westermann 221.

<sup>3</sup> *Ib.* 222.

<sup>4</sup> See *Lg.* 850.

<sup>5</sup> IC 4-231-5. (Another, IC 1 XXV 4, there attributed to Pyloros? of 1. 1st C. A.D. is now considered by Guarducci to be perhaps Gortynian, of 2nd or 3rd C. A.D.)

<sup>6</sup> *I.e.* 231, 233 and perhaps 236.

<sup>7</sup> The opinion of De Sanctis, followed by Guarducci.

<sup>8</sup> *I.e.* 234 and 235.

<sup>9</sup> Guarducci IC 4 p. 181.

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Certain other classes of inferiors, presumably automatically excluded from the *hetaireiai*, may have been considered to form part of the *apetairoi*. The serfs who, in the absence of other heirs, inherited estates, and whose economic status may be compared with that of the Spartan *neodamodeis*, could well have assumed the civic status of *apetairoi*, though their numbers cannot have been large.<sup>1</sup> Since the *syssitia* were supported by the state, those who were excluded on purely financial grounds, if they existed at all, would naturally be *apetairoi*.<sup>2</sup> So would those who might have been excluded for such reasons as physical unfitness for military service, cowardice and such offences,<sup>3</sup> and presumably those who had become *ἀτιμοί* and had lost their free status through debt or other misfortune;<sup>4</sup> also, possibly, sons of a male citizen and a female slave, and perhaps the children of a free mother by a serf even if they were accounted free.<sup>5</sup> But for the fact that they seem to have come under the jurisdiction of the *ksenios kosmos*,<sup>6</sup> we might reasonably also include those who had been adopted and later rejected.<sup>7</sup>

<sup>1</sup> DHR I 422. Cf. Willetts CP XLIX no. 1 (1954) 27-32.

<sup>2</sup> Larsen 19; Busolt 755. But cf. Ch. XXI.

<sup>3</sup> Larsen *ibid.*

<sup>4</sup> DHR I 406, 422.

<sup>5</sup> DHR I 422.

<sup>6</sup> IC 4.72.XI.

<sup>7</sup> Larsen *ibid.* n. 46.



# V

## THE SERFS

**B**EFORE considering the status of the serfs it will be convenient to discuss the confusing evidence for the nomenclature relating to the Cretan serf and slave classes generally. The Code uses *δδλος* to denote both, though the internal evidence normally makes it clear when *φοικεύς* is meant. The relevant literary evidence is, in the main, reported by Athenaios:

(1) Kallistratos.<sup>1</sup> λέγει δὲ καὶ Καλλίστρατος ὁ Ἀριστοφάνειος ὅτι τοὺς Μαρμαρινῶν ὠνόμαζον μὲν δοιοφόρους ἀφαιροῦντες τὸ πικρὸν τῆς ἐπὶ τῶν οἰκετῶν προσηγορίας, καθάπερ Σπαρτιάται μὲν ἐποίησαν ἐπὶ τῶν ἑλωτῶν, Θετταλοὶ δ' ἐπὶ τῶν πενεστῶν, Κρηῖτες δ' ἐπὶ τῶν κλαρωτῶν. καλοῦσι δὲ οἱ Κρηῖτες τοὺς μὲν κατὰ πόλιν οἰκέτας χροσωνήτους, ἀμφαμιώτας <sup>2</sup> δὲ τοὺς κατ' ἀγρὸν ἐγχωρίους μὲν ὄντας, δουλωθέντας δὲ κατὰ πόλεμον διὰ τὸ κληρωθῆναι δὲ κλαρώτας. (ἐπὶ τῶν οἰκετῶν Lumb: ἀπὸ Α[bracketed by Kaibel]).

(2) Ephoros.<sup>3</sup> ὁ Ἐφορος δ' ἐν γ' ἱστοριῶν κλαρώτας, ψησί, Κρηῖτες καλοῦσι τοὺς δούλους ἀπὸ τοῦ γενομένου περὶ αὐτῶν κλήρου.<sup>4</sup>

(3) Sosikrates and Dosiadras.<sup>5</sup> Σωσικράτης δ' ἐν δευτέρῳ Κρητικῶν τὴν μὲν κοινήν, ψησί, δουλείαν οἱ Κρηῖτες καλοῦσι μνολίαν, τὴν δὲ ἰδίαν ἀφαμιώτας, τοὺς δὲ ὑπηκόους περιολίκους.<sup>6</sup> τὰ παραπλήσια ἱστορεῖ καὶ Δοσιάδης ἐν δ' Κρητικῶν.

(4) Hermonax.<sup>7</sup> Ἐρμοναξ δὲ ἐν Κρητικαῖς Γλώτταις μετώτας τοὺς ἐγγενεῖς οἰκέτας (μετώτας C. μνώτας A).

(5) Hybrias.<sup>8</sup> τοῦτ' αὖτε δευπίατας μνολας κέκλημαι.

We have, in addition:

(6) Strabo.<sup>9</sup> καὶ τὸ ἀντὶ δούλων τοῖς ἐν ἀκμῇ χρῆσθαι νέοις, ὡς Κρηῖτες μὲν τοῖς Ἀφαμιώταις, Λάκωνες δὲ τοῖς Ἐλώσι.

(7) Pollux<sup>10</sup> also mentions μνώιται.

<sup>1</sup> *Ap. Ath.* 6.263 c-f.

<sup>2</sup> Here and in Eust. 1024-35; ἀφαμιώτας below in 263 f, Hsch. Str.

<sup>3</sup> *Ap. Ath.* 6.263 f.

<sup>4</sup> *Ib.* 263 f-264 a.

<sup>5</sup> *Ib.* 267 c. εἰργενεῖς corrected to ἐγγενεῖς Müller D II 48 n. 4.

<sup>6</sup> *Ib.* 15.695 f-696 a.

<sup>7</sup> 15.1.34.

<sup>8</sup> 3.83.

## THE SERFS

### (8) Hesychios<sup>1</sup>

(a) ἀφημιῶται οἰκέται, ἀγροῦκοι, περιῖκοι.

(b) Κλαῶται· εἰλωτες, δοῦλοι.

(c) \*Αφημίλας· τὰς ἀγροικίας and \*Εφημίλαι· ἀγροὶ καὶ βελτίον ἀφημι<λαι>.

(9) Eustathios<sup>2</sup> spells ἀφαμιῶται and says: οἱ κατ' ἀγρὸν ἰδίᾳ δοῦλοι. And finally (10), we must note the mention of ἀπαμίλα in an archaic inscription from Eleutherna.<sup>3</sup>

It is customary, in this context, to quote also the evidence of Aristotle's *Politics* on the *perioikoi*, where the term is used, as we have seen, to denote a class corresponding to the Spartan helots. But as this evidence has already been discussed, it is only necessary here to add that the *perioikoi* of the Hesychios gloss, 8(a), merely confirms that the term was used for serfs, but does not make it less incorrect to use Aristotle as evidence against the existence of a separate class of *perioikoi* in Crete, specifically mentioned by Sosikrates, confirmed by Dosiadas, and for which a convincing case can be made out from the epigraphic evidence.

We are left with the terms *aphamiotai*, *mnōia* and its cognates, and *chrysantoi*.

All the evidence goes to show that the *aphamiotai* were the serfs of the Cretan countryside, the *woikees* of the Code, who were considered as part of the *klaroi*, the family estates. Hence they could eventually be considered as privately owned serfs. They were native Cretans, reduced to serfdom as a result of the Dorian supremacy—δουλοθέρτας δὲ κατὰ πόλεμον. They are quite properly compared with the Spartan Helots and the Thessalian Penestai.

The word *mnōia* is more difficult to explain. The epigraphic evidence for public slaves, which has been already discussed, supports the statement of Sosikrates, τὴν μὲν κοινήν. . . δουλείαν οἱ Κρήτες καλοῦσι μνωίαν, in any case confirmed by Dosiadas. That the term is Cretan is clear from its appearance in the Cretan Glossary of Hermonax. Accepting there the reading ἐγγενεῖς, as seems necessary, we must conclude that the *mnōia*, like the *aphamiotai*, were native to Crete. Before slaves were bought and sold for money, the most likely method of recruiting *mnōia* would also have been through warfare. Hence it has been assumed that the word is derived from *δαμνάω*, 'and meant slaves taken in war as opposed

<sup>1</sup> Cf. St. Byz. s.v. Νίος Suid. s.v. Καλλισείηροι.

<sup>2</sup> 1024.35.

<sup>3</sup> IC 2.XII.116 A b 2.



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to hereditary serfs'.<sup>1</sup> Though the word can be correlated with *δμῶς* (with *μῆ-* < *νμ-* < *δμ*), the correlation of *δμῶς*: *δαμῶν*<sup>2</sup> is disputed in favour of a derivation from \**domu-*,<sup>3</sup> which would imply some such original meaning as 'houseling'. This derivation, of course, does not affect the probability that the main source of recruitment of *μνοία* was warfare, but it does give some point to the contrast between *αφάμιοται* and *μνοία* which is implied in the very existence of the terms, since it bases the terminology on a division of labour. Their recruitment mainly by warfare might explain why they were publicly owned. We may suppose that they had, however, long ceased to be merely 'houselings' and had also been increasingly employed on public services.

But why does Hybrias speak of *μνοία* and not of *αφάμιοται*, if, as is commonly assumed, the serfs on the master's land are implied? We need not go to the length of supposing that serfs on public land are really meant,<sup>4</sup> since the distinction between public and private serfs is not to be sought in the distinction between private and public land,<sup>5</sup> apart from the fact that such an interpretation could only be made to fit the Hybrias context by an exercise of ingenuity. It seems that we must choose between two other possibilities. Either the master in the poem is thinking of his domestics and not of his peasants, which is not perhaps very likely, or we may suppose that the terms *μνοία* and *αφάμιοται* have already become interchangeable. Such an assumption is supported by the later lexicography, and because the various terms for slaves and serfs tend to lose their specific meanings and acquire a general significance.

In the case of Crete, an impetus might well have been given to the blurring of distinction between *μνοία* and *αφάμιοται* with the development of a slave trade dependent on a money economy. The appearance of such a significant term as *chrysonetoi* marks also the appearance of a dividing line between peasant serfdom and urban slavery. Coinage is attested in Crete at the beginning of the fifth century,<sup>6</sup> and the commercial development of a city such as Gortyna would render it a likely centre for the employment of slaves bought in the market. So that the slaves proper of the Code may well be the same as the *chrysonetoi* to whom Kallistratos refers,

<sup>1</sup> Chirimes AS 217 n. 4.

<sup>2</sup> Curtius, Kretschmer, Meyer.

<sup>3</sup> Boisacq s.v. Cf. also Pendlebury AC 329.

<sup>4</sup> Cf. Van Effenterre CMG 92 on Kirsten DIK 118.

<sup>5</sup> Cf. *ibid.*

<sup>6</sup> Head HN 457.

## THE SERFS

destined to be as characteristic of urban, money economy as the *woikeus* had been of landed wealth.

The word *woikeus*<sup>1</sup> emphasized the close and special connection between the serf and the 'household', with its master, *pastas*.<sup>2</sup> This *pastas-woikeus* relationship in Crete must be assumed to have had its immediate origin in the parcelling out of the soil, together with the peasants who worked on it, among the Dorian invaders. The ancestors of each *pastas* were the original recipients of the *klaroi*. These 'lots' or family estates had been handed down in the family, and the attached peasants, the *klarotai*,<sup>3</sup> continued to form part of the inherited property.

The city was the centre of the political and social life of the state, where the ruling class of landowners and officials had their dwellings, *sysitia*, *agora* and *gymnasia*. Except for the possibility<sup>4</sup> that some of them might have had a house there, the serfs could have played little part in urban life. The land was the centre of their existence. We can infer from the Code that the houses in which they lived, belonged, as they did themselves, inalienably to the *klaroi*, and were furnished by the serfs from their own means. The serfs could possess cattle in their own right, apart from those of their master which they also tended. They cultivated their master's estates, paying those tributes and dues mentioned by Aristotle and Dosiadas which have already been discussed.<sup>5</sup>

The serf could marry and divorce,<sup>6</sup> and his family had a recognized status, though a very much more restricted one than that of the free citizens, since the law did not take cognizance of his *kadestai*. His wife could possess her own property, which reverted to her in case of divorce. Upon her marriage, she changed

<sup>1</sup> The Code Cols. II, III, IV. Cf. IC 4.23; 41.IV.

<sup>2</sup> The Code Cols. II 32, 43; III 54; IV 2, 5, 20, 22-3; IC LVIII (Knossos) 5 B. 3; IC 2.V (Axos) 2.3. Cf. Buck GD 43: '*πάμα* and related forms, frequent in literary Doric, were employed in preference to *σπίμα*, etc., in most, perhaps all, the dialects except Attic-Ionic.'

<sup>3</sup> Cf. the phrase—*ἢ κλέρος φθείρηται ἢ οὐκ ἐκλήσται*—in IC LXVI (Lato) 17.16 and 20.

<sup>4</sup> The phrase—*αἱ καὶ μὴ φοικεῖς ἐν φοικῇ ἐπ' αὐτὸν κλέρος φοικῶν*—(Code Col. IV 33-5). DHR translated: '—dans les maisons, pourvu qu'elles ne soient pas occupées par un des serfs attachés au domaine rural', followed by Guarducci, who rejects Comparetti's *φοικῶν*, on the grounds that if the intention had been to signify rural, as distinct from urban, dwellings, *φοικῶν* would certainly have been the reading and not *φοικῶν*. Cf. also Buck: 'which are not occupied by a serf residing in the country'. Serfs who worked estates near the city might have had urban dwellings.

<sup>5</sup> Pp. 20-1.

<sup>6</sup> Code Col. III.



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masters; if divorced, she returned to her former master, or to his relatives.

Since serfs were the property of their masters, their children called for special legal provisions. The right of a master to the child whose parents were both his serfs is taken for granted. If a female serf bore a child after divorce, she had to take it to the master of her former husband.<sup>1</sup> If he did not want it, the child came under the authority of her master. There is even a special provision guaranteeing the right of the husband's master to the serf child if the divorced couple remarry within a year.<sup>2</sup> The provisions relating to the children of mixed marriages have already been discussed.<sup>3</sup> We need here only further notice the discrimination against the unfree children of a free mother. For the Code provides that if a mother has free and unfree children, and she dies leaving property, the free children are to inherit it; and if there are no free children, then her relatives inherit.

As is made clear from the penalties laid down in the Code for such offences as rape, the serf had access to the law-courts. But it is probable that he was normally represented by his master,<sup>4</sup> and such an indirect means of access to the processes of justice could presumably mean, in effect, that he was deprived of them if his master was unwilling to act on his behalf. Similarly, it is the master who takes the oath and produces witnesses on behalf of the serf.<sup>5</sup>

We can infer, from a provision of the so-called Second Code,<sup>6</sup> that a serf could lose his serf-status and be sold as a slave. Here we learn that a fugitive serf cannot be sold if he has taken refuge in a temple or during the year of his flight<sup>7</sup> (or within a year if he has taken refuge in a temple).<sup>8</sup> If his master be a *kosmos* the serf cannot be sold whilst his master is in office.<sup>9</sup> We can conclude that, subject to the delays enforced by law, the fugitive serf was restored to the ownership of his former master, who could then sell him as a slave. Presumably, in normal circumstances, the status of the serf was protected by custom, and he could not be sold as a slave, even by his lord.<sup>10</sup>

Conversely, as we have seen,<sup>11</sup> the serf could, in certain circum-

<sup>1</sup> Code Col. III.

<sup>2</sup> Code Col. IV.

<sup>3</sup> Pp. 34-5.

<sup>4</sup> DHR I 425.

<sup>5</sup> Code Col. II.

<sup>6</sup> IC 4.41.IV = DHR LXVIII.IV p. 395.

<sup>7</sup> So DHR I 486.

<sup>8</sup> So Guarducci *ad loc.*

<sup>9</sup> Magistrates in office could not go to law. Code Col. I.

<sup>10</sup> DHR I 487 n. 1.

<sup>11</sup> Pp. 10; 35-6.

## THE SERFS

stances, presumably rare, be an heir to the *klaros* to which he belonged, and become a free man in consequence. This provision is a reminder that the serfs had once been free, and no conjecture as to their relative good fortune<sup>1</sup> should be allowed to obscure the fact that the development of Cretan society had rendered the serfs economically an exploited class, and had likewise deprived them of political rights.

<sup>1</sup> E.g. DHR I 426: 'En somme, la condition du serf crétois n'était pas désavantageuse. Elle était bien supérieure à celle de l'hilote', etc.

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## VI

### THE SLAVES

THE slaves proper, as distinct from the serfs, formed the fourth class. Though the word *dolos* of the Code embraces both slaves and *woikees*, there are two passages where specific reference is made to slaves proper. A penalty is laid down in the case where a master is convicted of rape against his female slave: *ενδοθιδλαν δδλαν αλ κάστει δαμάσαιο, δύο στατήρας καταστασει κτλ.*<sup>1</sup> The passage is interesting not only for its rather clumsy, if exact, definition of a female domestic slave, but for other and more important reasons. It helps to make clear that the slave could at least possess money; for there can be no doubt that, in this case, the fine goes to the slave.<sup>2</sup> It also establishes a precedent for the conclusion that fines normally were paid to the injured party, rather than to the head of the family in the case of a free man, or to a master in the case of the unfree.<sup>3</sup> But the most remarkable feature of the passage is its conclusion: *όρκιοτέραν δ' έμην τάν δδλαν*. This is the only occasion on which an unfree person is admitted to the right of oath, otherwise the exclusive privilege of the free. Moreover, the right of oath clearly discriminates in favour of the slave against the master. In this respect the Gortynian law was more humane than the Athenian; for in Athens, torture was normally considered the only means of eliciting the truth from a slave. The comparison helps us to realize that the widespread development of slavery as an institution involved a progressive diminution of the rights of those who became slaves, and of the humane qualities of those who became slave-owners.

<sup>1</sup> Code Col. II. Cf. DHR and Guarducci *ad loc.*

<sup>2</sup> Cf. DHR I 427.

<sup>3</sup> Cf. *ib.* 452. That a household serf was concerned was probably a factor of importance. See the distinction made in S. OT 1123: *ή, δοῦλος οὐκ ἀνητός, ἀλλ' οἷός τε τραπεζίς*; and cf. Sch. Ar. *Eq.* 2, Pl. *Men.* 82 B, D. Chr. 15.25, Poll. 3.78, [Dem.] 13.24, Hsch. 2.766, CIG 1.828.

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Then there is the passage which refers to the buying of slaves in the market-place: α[Ι] κ' ἐκς ἀγ[ορᾶς] πρ[ε]σβ[υ]ταιος δόλον μὲ π[ε]ραιδύσει τὰν φεκαῖχον<sup>2</sup> ἀμ[ε]ρᾶν, αἱ τινά κα πρὸθ' ἀδικεῖ|κεῖ ἔ ὕστερον, τοῖ π[ε]ραιμέν|οι ἐνδοκον ἔμ[ε]ν<sup>3</sup> ('If the purchaser of a slave from the market-place has not repudiated the purchase within the sixty days, and if the slave has wronged anyone before or afterwards, it is the one who has acquired him who shall be liable'). It seems that at Gortyna, as elsewhere,<sup>4</sup> the purchaser of a slave was allowed a certain time within which he might repudiate the purchase, upon discovering any hitherto concealed faults, physical or otherwise. The purchase would not be binding, and the purchaser not liable for the acts of the slave, until this period had expired.

This reference to the practices of the market renders more apt the Cretan definition of slaves, reported by Kallistratos as *chrysonetoi*. The slave was nothing more than a commodity, subject to the processes of exchange, his value assessed in terms of money-price according to the dictates of the open market. When it is laid down<sup>5</sup> that, when the master dies and the heirs cannot agree about their shares, the property shall be sold and the proceeds divided among them, we have to understand that the slaves are to be sold as part of the property.<sup>6</sup> Similarly, when the heiress is allowed to take possession of a town-house and everything in the house,<sup>7</sup> the furniture and the slaves are meant.<sup>8</sup>

Also, the existence of Latosion as a separate quarter designed partly for freedmen presupposes the existence of a class of slaves. But, although slavery was to become dominant in Mediterranean economy, it was by no means yet dominant in Crete. In Gortyna of the fifth century we are presented with a mixed form of economy, with serfdom still paramount—and we can assume that,

<sup>1</sup> Code Col. VII 10-15. Cf. IG 4-41.VII. 7-19 and Guarducci *ad loc.* (thirty days). Cf. also the Athenian practice: DHR I 469 and n. 1.

<sup>2</sup> In most of the slave-sale documents of the Hammurabi period, the purchaser is safeguarded against three possibilities: (i) the purchaser is allowed a period of grace of from one to three days, for enquiring into the antecedents of the slave, in case he should be a fugitive; (ii) a second period, lasting for a month, insures the buyer against the possibility that the slave may be suffering from some incurable disease, undetectable at the time of sale; (iii) a third period, applying also to sales of other commodities, is unlimited in time, and guarantees the purchaser against a claimant who might contest the legality of the sale. A similar clause is also found in Assyrian slave-sale documents. Mendelsohn SANE 38-9. Cf. DHR I 469 n. 3.

<sup>3</sup> Code Col. V.

<sup>4</sup> DHR I 428.

<sup>5</sup> Code Col. VII.

<sup>6</sup> DHR I 428.



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in the fifth century, slavery was at least as highly developed in Gortyna as anywhere else in Crete.

This fact in itself goes a long way toward explaining why most of the provisions of the Code which relate to the unfree must be taken as applicable to *woikees* exclusively. The divorced wife who exposes her child, before presenting it according to law, has to pay a fine of fifty staters if the child is free, twenty-five staters if unfree.<sup>1</sup> But the child's mother is certainly a serf and not a slave.<sup>2</sup> Also, when the *dolos* is taken in adultery with the wife of a *dolos*, and has to pay five staters,<sup>3</sup> *dolos* here means *woikeus*.<sup>4</sup> For we must suppose that marriage was not recognized among slaves.<sup>5</sup>

The slave and the serf were alike in that they both had a *pastas*. But what makes them distinct in the social hierarchy is their different economic status: the close relationship existing between the serf and the land of which he was an immovable part, except when his ties were broken under the conditions we have discussed; and the equally close relationship between the slave and the money-market, which made him a movable commodity. The slave belonged to the city as essentially as the serf belonged to the country. He was less free than the serf to the degree in which he was more able to move, or rather be moved, as property.

It follows that the free man who temporarily lost his status as a free man and became either *katakeimenos* or *nenikamenos* should rather be compared in his new status with a serf than a slave, since he undergoes a form of bondage analogous to serfdom. A consideration of the relevant inscriptional evidence will help to make the point clear. It will be recalled that the *katakeimenos* (*nexus*) was a free man who had pledged his person in payment of a debt; and the *nenikamenos* (*iudicatus*) was a free man condemned for debt and handed over in bondage to his creditor—an *addictus*.

Both are mentioned together in an early passage of the Code,<sup>6</sup> where the seizure of either is declared to be legitimate: which is what we should naturally expect in the circumstances. This provision, in contrast with the protection against seizure before judgment afforded to others, sets an authoritative seal upon a state of affairs, which, although it may not have been new, may well

<sup>1</sup> Code Col. IV.

<sup>2</sup> DHR I 428.

<sup>3</sup> Code Col. II.

<sup>4</sup> DHR I 428.

<sup>5</sup> "... leur union n'est pas un *connubium*, mais un *contubernium*." DHR I *ibid*.

<sup>6</sup> Cola. I 55-II a.

## THE SLAVES

have been naturally accompanied by all kinds of evasions. Otherwise the law might not have had to give such an official blessing to the initiative of the creditor; especially as, in the case of the *katakeimenos*, the contract was, at least theoretically, freely entered upon.

The *katakeimenos* is the subject of other provisions,<sup>1</sup> which enlarge our information about his status. The creditor to whom he gave himself in bondage was called *katathemenos*. The *katakeimenos* was, in some respects, like the ransomed prisoner of the Code,<sup>2</sup> who, rescued from his misfortunes abroad, must nevertheless stay in the power of the person who effected his release until he has paid what is due.<sup>3</sup> It is provided that the *katakeimenos* shall not be proceeded against if he has done something wrong which has occasioned loss to the *katathemenos*, if it can be proved that the *katathemenos* was his instigator. If a wrong has been committed against a third person by the *katakeimenos*, it is he who must pay the penalty, and not his temporary master. If he cannot pay, the third party and the *katathemenos* make some arrangement which has not survived in the inscription.<sup>4</sup> But, although he could defend himself at law, the *katakeimenos* could not take independent action on his own behalf. If he has suffered some wrong, the *katathemenos* can undertake the action on his behalf; and any sum awarded, which must be the same as that which would be awarded to a free man, is to be shared equally between them. If the *katathemenos* refuses to go to law on his behalf, the *katakeimenos* can go to law himself, after he has paid his obligations.

The ambiguous position of such a *katakeimenos* is clearly exemplified by these provisions. Like a free man, he can defend himself at law; but otherwise he must be represented by his master. From the point of view of financial compensation, and obligation, he is regarded by the law as equal to a free man; yet, by reason of his temporary status, the law compels him to sacrifice half of what may be his due to the *katathemenos*. After fulfilling his bondage he can undertake a legal action as a free man which has not been undertaken on his behalf by the man to whom he was bound.

The word *katakeimenos* could also signify a slave who was given in pledge.<sup>5</sup> This seems to be the proper interpretation at one

<sup>1</sup> IC 4.41.V-VI.

<sup>2</sup> Col. VI.

<sup>3</sup> The comparison is referred to by Guarducci, following Swoboda, IC 4 pp. 96-7.

<sup>4</sup> See DHR I 488; Guarducci IC 4 p. 97.

<sup>5</sup> DHR I 450 n. 2; Guarducci IC 4 p. 153.



## THE CLASSES

place in the Code,<sup>1</sup> and we can gather a certain amount of information about such a *katakeimenos* from another inscription.<sup>2</sup> Here we learn that if such a pledged slave, male or female, does an injury to someone else on the instructions of his or her *katathemenos*, an action is brought against the *katathemenos*. But if the slave is directly responsible, without the connivance of the *katathemenos*, an action is brought against the slave's former master. It is clear that the slave had no existence as a responsible person in the eyes of the law. Similarly, slaves and animals causing damage are treated together in the same passage of Plato's *Laws*,<sup>3</sup> where it is considered that the master of the slave who has done the harm shall either make full satisfaction, or give up the slave who is responsible.

Here it is laid down that if the former master loses the suit, he must discharge his debt to the mortgagee, since, presumably, the slave must be handed over to the successful claimant.<sup>4</sup>

If anyone inflicts injury on a slave so given in pledge, and both the master who gave, and the one who received him, win the suit, both are to share the fine. But if only one goes to law and wins, he takes all the damages.

If the pledged slave runs away, the *katathemenos* must swear that he has neither instigated nor connived at the action, and assert that he does not know the whereabouts of the runaway. If the slave dies, the *katathemenos* must show him to two witnesses. If he should refuse what the law lays down in either case, he must pay the price of the slave to the owner.

In a suit where the *katathemenos* is accused by the owner of selling or hiding the slave, double the amount is assessed. In a case where the slave flees to a temple, he must be shown by the *katathemenos* to the owner.

These provisions, although directly concerned with a special kind of slave, also throw a general light on the condition of slavery, and alike on the property laws to which it gave rise; and a consideration of them fully justifies the comparison of the status of the *nenikamenos* and the voluntary *katakeimenos* with that of the serf rather than the slave.

<sup>1</sup> Col. X 26.

<sup>2</sup> Cf. Guarducci *ad loc.*

<sup>3</sup> IC 4-47.

<sup>4</sup> *Lg.* 936 d. Cf. IC 4-41.1.

## PART THREE

### THE FAMILY

In Lebensfluthen, im Thatensturm,  
Wall' ich, auf und ab,  
Webe hin und her!  
Geburt und Grab,  
Ein ewiges Meer,  
Ein wechselnd Weben,  
Ein glühend Leben,  
So schaff' ich am sausenden Webstuhl der Zeit,  
Und wirke der Gottheit lebendiges Kleid.

GOETHE





## VII

### THE OIKOS

WE have now to return to the free citizen class through an investigation of its family system. An explanation of the institution of the *oikos* is an essential preliminary to the understanding of this system.

As was stated earlier,<sup>1</sup> the *oikos* consisted of a group of blood relations within the wider circle of the clan, consisting of the founder and his children, his sons' children, and the children of his sons' sons. The history of the *oikos* is closely related to the history of Greek land tenure in general, and there is likewise a close connection between the *oikos* and the *klaros*, the 'lot' or family estate.

The existence of the *oikos* presupposes the development of smaller units within the clan, eventually tending more and more to become independent of it. Seebohm thus explained the origin of the *oikos*: 'It was extremely improbable that a man would see further than his great-grandchildren born to him before his death . . . thus, especially in cases where the property was held undivided after the father's death, we can easily see that second cousins (*i.e.* all who traced back to the common great-grandfather) might be looked upon as forming a natural limit to the immediate descendants in any one *oikos*, and as the furthest removed who could claim shares of the ancestral inheritance.

'After the death of the great-grandfather or head of the house, his descendants would probably wish to divide up the estate and start new houses of their own. The eldest son was generally named after his father's father, and would carry on the name of the eldest branch of his great-grandfather's house, and would be responsible for the proper maintenance of the rites on that ancestor's tomb. . . .

<sup>1</sup> P. 29.



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Thus seems naturally to spring up an inner group of blood-relations closely drawn together by ties which only indirectly reached other and outside members of the *genos*.<sup>1</sup>

At Gortyna, the Code<sup>2</sup> provides that the father shall have power over the children and the property to divide it among them; that as long as the parents are alive, there is no necessity for division; and that if a man or woman die, their children, or grand-children, or great-grandchildren, shall have the property; so that the headship of the *oikos* and the ownership of the property were vested in the parent as long as he lived and wanted to retain his proprietary right. Even when he was dead, the sons need not necessarily divide the estate among themselves but could exercise joint ownership of the single *oikos* of the dead parent. In such a case the eldest son would probably take the house (i.e. the hearth), fulfilling his duties to the family altars, a duty which devolved upon him as head of the family.<sup>3</sup>

Such joint ownership is exemplified in the speech of Demosthenes against Leochares,<sup>4</sup> where we learn that the two sons of Euthymachos, after his death, gave their sister in marriage, and themselves lived separately but without dividing their inheritance. The property remained undivided after the marriage of one of them. Each had a share of the income, the one in Athens, the other in Salamis. In another speech of Demosthenes,<sup>5</sup> the opposite happened. The five sons of Bouselos received their fair share of his property, married, and had children and grandchildren. But in this case, each brother lived apart, and five *oikoi* sprang out of the one of Bouselos.

It is further enacted that,<sup>6</sup> when a man or woman dies, leaving no children, the deceased's brothers, and brothers' children, or grandchildren, shall have the property. If there are none of these, the deceased's sisters, their children or grandchildren inherit it. If there are none of these, the heirs who have the next claim (*epiballontes*) inherit the property. Thus, as Seebohm pointed out,<sup>7</sup> in the direct line, a man's descendants down to great-

<sup>1</sup> SGTS 54-5. Similar types of household, sometimes with the same limitations, have been found among Celts, Germans, Slavs and Hindus: *ib.* 49-54; F. Seebohm EVC 35; Kovalevsky TOEPP 60-100. See further on the *oikos* Thomson SAGS 109-11, 139, 153, 313-14, 323.

<sup>2</sup> Col. IV 24 ff.

<sup>3</sup> D. 1089.

<sup>4</sup> SGTS 56-7. Cf. DHR I 462 n. 4; Guarducci *ad loc.*

<sup>5</sup> Seebohm SGTS 47, 90 ff.

<sup>6</sup> D. 1055-6.

<sup>7</sup> Col. V 9 ff.

## THE OIKOS

grandchildren inherited the estate. But in the case of inheritance through a brother, the kinship terminated with the brother's grandchildren, who would thus be great-grandchildren to the nearest common ancestor with the previous owner of the estate.

The *epiballontes* were kinsmen in any degree.<sup>1</sup> From the context, we may conclude that the *epiballontes* here were kinsmen, who, whilst not being members of the *oikos*, belonged to the same *gens* as the members of the *oikos*.

Finally, as we have seen, the law enacted that if there were no rightful heirs to inherit the property, then the household's *klaros* (i.e. in this sense, the persons composing the lot or estate) inherited: or, in other words, the *klarotai* who lived upon and belonged to the land, took all the property. 'This provision', wrote Seeböhm,<sup>2</sup> 'favours the idea that at Gortyn also<sup>3</sup> the citizen-population came of a race of conquerors, who were not exactly looked upon as ground landlords upon whose land a subject family was settled or had been allowed to remain, but that, whilst the relation of the *klarotai* to their land was of the closest if not an absolute bondage to the soil, the proprietary rights of their superiors and masters consisted of the conqueror's overlordship and the power to derive their maintenance from the joint produce of their serfs' labour and the land.'

The system of inheritance revealed in the Code thus embraces three phases of the development of Gortynian land tenure. If we reverse the order we restore the correct historical sequence. There was a time, it seems, when the peasantry used the land in their own right. Then followed the sharing out of the land and its attached peasantry in equal lots among the clansmen belonging to the various Dorian tribes. Then, as the narrower institution of the *oikos* developed within the clan, the ownership of the estates tended to become confined to this narrower kinship circle. The first phase has been pushed into the distant background, the second phase is becoming a residue, and the third phase, though dominant, is perhaps already threatened by the premium which is set upon division of property.<sup>4</sup> But of the innovation which would have disrupted this system further, the free testamentary

<sup>1</sup> Cf. Hdt. 4.115; Luke 15.12. Except when used of the heiress, Merriam 349 n. 29.

<sup>2</sup> SGTS 130-1. Cf. DHR I 463.

<sup>3</sup> *I.e.* as at Sparta.

<sup>4</sup> Polybios knew of no restriction in the possession or division of landed property in Crete: 6.46. Cf. Ch. XV; Merriam 349.



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disposition of property, there is as yet no trace in the Code. That is because landed wealth still held a dominant position as compared with wealth in the form of money. However, the most likely explanation of the premium set upon division is the growing power of the new form of economy, with its natural and imperative emphasis upon alienation.

## VIII

### ADOPTION

THE custom of adoption is primitive, and well attested in the records of tribal society. The ceremony of adoption is described as an imitation of childbirth,<sup>1</sup> and adoption is a special rite of initiation.<sup>2</sup> 'The stranger dies as a stranger and is born again as a member of the clan.'<sup>3</sup>

The Gortynian law of inheritance shows that the ownership of property was still to some extent vested in the clan (*epiballontes*). In the days when it had been wholly vested in the clan, the property of a dead man would have reverted to his fellow clansmen, distributed among them in proportion to their degree of affinity to the deceased.

As the *oikos* developed within the clan, and as the aristocratic state developed out of the basis of tribal institutions, the right of the clansmen to a share of the inheritance would become more and more formal. The existence of the *oikos*, moreover, presupposes special religious and social obligations, such as would be associated with the maintenance of the estate, of family ties and duties, and the upkeep of rites at the founder's tomb. The heir to the estate would be primarily responsible for these duties and obligations. In the absence of free testamentary disposition, the head of the *oikos* would thus have to become increasingly aware of the necessity of ensuring that he had a suitable heir within the *oikos*. As clan ties weakened, he would be increasingly reluctant to allow his possessions to pass out of the limits of the *oikos*, and even more unwilling to allow them to pass to his serfs in the absence of *epiballontes*. In the now prevailing social conditions, we may assume, the aristocracy had transferred the initiative in

<sup>1</sup> *Corp. Gloss. Lat.* 4.304.44; *Plin. Pan.* 8.1; cf. *Camiod. Var. Ep.* 4.2.

<sup>2</sup> Hartland in *EER* 1.106; Grönbech *CT* 1.305; Kovalevsky *TOEFP* 125; Russell and Lal *TCCPI* 2.237.

<sup>3</sup> Thomson *SAGS* 95.



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the custom of adoption from the clan to the state, through the agency of the *hetaireiai*.

The custom is attested at Gortyna among the earliest surviving inscriptions,<sup>1</sup> and is the occasion of a number of important and interesting provisions of the Code.<sup>2</sup> At Gortyna, adoption was called *anpansis*, whence *anpanamenos* (or *ampanamenos*) for the adopter, and *anpantos* (or *ampantos*) for the adopted, all deriving from *ampainethai* ('show forth'), for reasons which are made clear in the description of the rites associated with the practice.

The relevant passage in the Code begins with the provision that adoption may take place without restriction (*ἄπῳ καὶ τίλ λῆσι*). The adoption is to take place in the *agora*, when the citizens are assembled, from the stone from which proclamations are made. The adopter is to give to his *hetaireia* a sacrificial victim and a measure of wine.

If the adopted person inherits all the property, in the absence of legitimate children, he must fulfil all the obligations of the adopter towards gods and men, and is to inherit the property just as is prescribed for legitimate children. If he is not willing to undertake these prescribed obligations, the property is to pass to the *epiballontes*.

If there are legitimate male children of the adopter, the one adopted is to inherit a portion equal to that which sisters receive from their brothers. If there are no males, but females, the one adopted is to have an equal share, and it will not be incumbent upon him to pay the obligations of the adopter and accept the property which the adopter leaves, since he cannot succeed to more than an equal share with the females.

If the one adopted should die without leaving legitimate children, the property is to return to the *epiballontes* of the adopter. Should he so desire, the adopter may renounce the one adopted in the *agora*, from the stone where proclamations are made, when the citizens are assembled, depositing ten staters with the court, and the *πράμωρ ὁ τῷ κῶεντῳ* (i.e. the secretary of the magistrate who looks after the interests of strangers) shall hand over this amount to the renounced person.

Neither a woman, nor a person under puberty, is allowed to adopt. The section concludes with the provision that the enactments are not to have retroactive effect.

<sup>1</sup> IC 4.20, 21. (7th-6th C. B.C.).

<sup>2</sup> Cols. X 34-XI 23.

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It has been maintained,<sup>1</sup> in view of the clause prohibiting retro-active effect, that the provisions generally mark an innovation in legislation concerning adoption; moreover, that the institution had been originally a device for ensuring succession in the male line in the absence of proper legitimate male heirs. Consequently the adopted son was a son in every legal sense, inheriting all his father's possessions, continuing his line, and, like sons of his blood, unable to repudiate his social and religious obligations. A quotation from Demosthenes has been taken to testify to the assumption that, originally, the adopted son was chosen from near relatives.<sup>2</sup> It is thus further maintained that the institution had now changed in the following ways. A stranger could now be adopted into the household; the bond established by adoption was now less binding and could be repudiated; and adoption was possible even though other immediate heirs existed.

There is little doubt that some such evolution did take place. But the process can be clarified by taking account of the following considerations, which partly modify but, in general, strengthen the arguments. In the first place, adoption, as we have noticed, had its origin, not in the family, but in the clan. This explains why the testimony of Demosthenes has a more cogent force than has been supposed. For the adopted son, being drawn from the clansmen, was indeed of the same blood as the adopter. But adoption into the household (as opposed to adoption into the clan) was not necessary to establish such blood relationship. What it would establish was the priority in succession of the adopted son over his fellow-clansmen. Hence we may assume household adoption to have been a natural accompaniment of the development of the *oikos* within the structure of the clan, a necessary and limiting adaptation of the ancient institution of adoption into the clan and tribe. Moreover, at an early stage, the practice of exogamy, later limited by such regulations concerning the heiress as we find in the Code, and more drastically limited by regulations of the same order at Athens, would make the adoption of males into the household a necessity, in order to perpetuate the household in the male line.<sup>3</sup> (So

<sup>1</sup> DHR I 482; cf. Guarducci *ad loc.*

<sup>2</sup> *Ἐκ τῶν κατὰ γένος ἀγγελάτων* D.1093, cited by DHR I *ibid.* n. 1. Cf. Guarducci *ad loc.*

<sup>3</sup> Cf. DHR I *ibid.*



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that we naturally expect the adoption of females to be a later innovation.)<sup>1</sup>

The next step in limiting the rights of clansmen is to make possible the adoption into the household of non-clansmen. There is a strong possibility that it is this stage of drastic innovation which is quietly announced as the prelude to these particular regulations of the Code.<sup>2</sup> The practice of adoption, which grew out of tribal custom, is now capable of being used to counter the lingering rights of the clansmen to inherit the property of the adopter. Though free testamentary disposition did not yet exist, the ground is being prepared for the possibility by the successive change of an ancient institution into its opposite. From being an assertion of the rights of kinship within the clan, adoption is on the way to becoming a denial of those rights.

In the same way, although the assembled people are still necessary witnesses to the act of adoption, they play a passive part. Formerly, it may be assumed, when adoption was a tribal and not primarily a household concern, the part played by the assembled people was active and indispensable, since adoption was made directly into their ranks, into their system of kinship, in a very real, and not in a formal sense.<sup>3</sup>

The solemn nature of the ceremony of adoption, involving, as it did, family, state and religion, is clear from the bare description given in the context. In this respect Gortyna was not exceptional. The ceremony was equally important at Rome.<sup>4</sup> At Sparta,<sup>5</sup> adoption had to take place before the kings, a fact which emphasizes the antiquity of the ceremony, its religious character and constitutional importance. At Gortyna, the place of the kings was taken by the *hetaireia*, which reinforces what has been said about the part played by the *hetaireia* in the Cretan state and social structure. The adopter offered his adopted son as a candidate for entry into his own *hetaireia*, presenting a sacrificial victim and a measure of wine.

<sup>1</sup> Cf. *ibid.* n. 3. (At Athens in the 4th C. according to Is. 11.9, 41. Also at Rome, *Gai Inst.* 1.101; *Gell. Noct. Att.* 19.10.)

<sup>2</sup> Freedom of choice in adoption seems to be implied by the phrase ἀνταρτίου ἕνεκεν ὅτι καὶ τὰ ἄλλα (X.33), and was so interpreted by DHR and Merriam. Cf. Is. 2.13: τὸ ἐξελθεῖν ποικίλων ἀντιῶν ὅτι καὶ ὁ βούλωνται. Guarducci interprets 'e qualibet familia' and contrasts Is.

<sup>3</sup> The Roman people played a more active part, since they signified their consent: *DHR I* 482-3; Guarducci *ad loc.*

<sup>4</sup> *Gai. Inst.* I 97 ff.; *Gell. Noct. Att.* 19; Guarducci *ad loc.*

<sup>5</sup> *Hdt.* 6.57.

## ADOPTION

In matters of adoption the *hetaireia* thus corresponded to the phratry at Athens, where, during the annual feast of the Apatouria, the names of legitimate and adopted children born during the year were enrolled by the father in the register of the phratry to which he belonged.<sup>1</sup> The frugal supply of wine at the Cretan ceremony has been adduced<sup>2</sup> as evidence of the antiquity of the ritual, just as the victim at Athens was called *meion*.<sup>3</sup> For, although frugality in meat and drink, especially wine, is said by Plato<sup>4</sup> to have been characteristic of the Cretans, at their ordinary meals a bowl of wine was put on the table, and a second at the end of the meal.<sup>5</sup> The victim was presumably sacrificed to Ζεύς Ἐταυρεῖος, as in Athens to Ζεύς Φυάτρειος.<sup>6</sup>

Naturally, however, the Code views adoption primarily in the light of its relation to rights of inheritance. These rights differ, according as the adopter dies with or without legitimate sons. If there are none, the adopted son becomes sole heir, on condition that he undertakes to fulfil the social and religious obligations of the deceased adopter, i.e. the *sacra*, payment of debts and so on,<sup>7</sup> as is prescribed for legitimate sons.<sup>8</sup> If this condition was not fulfilled, the property passed to the *epiballontes*.<sup>9</sup>

If there were other children,<sup>10</sup> the adopted son had a daughter's share, a less generous portion than he would have had at Athens, where, in similar circumstances, he received an equal share with the other sons.<sup>11</sup>

That the main purpose of adoption into the household was to ensure adequate succession in the male line is emphasized by the provision that, if the adopted son dies without legitimate issue, the property he has received from the adopter must be returned to the *epiballontes* of the adopter.<sup>12</sup>

<sup>1</sup> On the Athenian practice of adoption see Merriam *ad loc.*

<sup>2</sup> Merriam *ad loc.*

<sup>3</sup> Poll. 3.53. Cf. Sch. Ar. Ra. 798. The lamb or sheep offered had to be of a certain weight. Hence the cry of the members of the phratry, "Too light!" (*μειον*).

<sup>4</sup> Min. 320.

<sup>5</sup> Ath. 4.143 c-d.

<sup>6</sup> Guarducci on Col. X 37-9. Cf. DHR. I 483.

<sup>7</sup> Cf. Is. 2.10, 36-7, 46.

<sup>8</sup> Presumably a reference to earlier legislation: DHR I 483 n. 2.

<sup>9</sup> It may be that a growing reluctance to assume such obligations was already a factor in persuading *epiballontes* to acquiesce in the practice of adoption into the *oikos*.

<sup>10</sup> Perhaps such children were born after the adoption. Cf. DHR I 483 n. 3. Adoption was not allowed at Athens if there were children already: D.1095.

<sup>11</sup> Is. 5.63.

<sup>12</sup> Cf. at Athens D.1094, 1098.



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Revocation of the adoption was attended by the same formalities as the adoption itself.<sup>1</sup> It seems clear that the sum of ten staters was given to the rejected person as a form of compensation to help him to succeed in his new status. But why is the *ksenios kosmos*, through his official, involved in the procedure? Comparetti<sup>2</sup> concluded that, because the *ksenios kosmos* was concerned, adopted sons were usually bastards, and that, once renounced, they returned to the class of the *apetairoi* out of which the act of adoption had raised them to the rank of citizens. Dareste<sup>3</sup> conceded that this was possible, but argued that it was also possible to suppose that all adopted sons who had been renounced, legitimate or bastards, joined the *apetairoi*. But, as we have seen,<sup>4</sup> the fact that the jurisdiction of the *ksenios kosmos* is involved rules out the possibility that rejected sons joined the *apetairoi*. It seems much more likely that, since he could not now inherit land, the rejected son had to support himself as an artisan, or in trade, or in some other way, and so was treated as a metic, since metics came under the jurisdiction of the *ksenios kosmos*.<sup>5</sup>

<sup>1</sup> At Athens, revocation (*ἀποσημασία*), strictly speaking, occurred only in cases of legitimate sons: D. 1006; cf. Pl. *Lg.* 928-9; E. *Alc.* 737. Repudiation of an adopted son occurred by mutual consent—even, in one case, after marriage to a daughter of the adoptive father: D. 1029. Cf. also Plu. *Them.* 2; Luc. *Abd.* 5; Hermog. *Inv.* 4.13.

<sup>2</sup> Cf. Guarducci *ad loc.*

<sup>3</sup> DHR I 423.

<sup>4</sup> P. 45.

<sup>5</sup> See p. 40. In Pl. *Lg.* 929 the rejected son, if not adopted by another citizen within ten years, had to emigrate.

## IX

### THE HEIRESS

IT is generally recognized that the sections of the Code<sup>1</sup> which contain special provisions relating to the heiress (*patroiskos*)<sup>2</sup> are of considerable importance, both from a social and from a legal point of view. In their comparative aspect, the Gortynian provisions have been interpreted as the outcome of a more enlightened legislation,<sup>3</sup> in that they show more consideration for the rights of women than, for example, the Athenian. But the rejection of this interpretation, in favour of the view which sees the Gortynian legislation as an attempt to advance in the same direction as the Athenian, is implicit in what has already been said in the first chapter. There, the even more favourable position of women in Sparta, as compared with either Crete or Athens, was taken into account. Little more will be added here about Sparta; but in order to substantiate the interpretation that at Gortyna the men had not gone so far in the elimination of women's rights—or, in other words, that the Gortynian laws reveal an earlier stage in the breaking down of the rule of exogamy, by which husband and wife had had to belong to different clans—it will be necessary first to discuss the Athenian practice in more detail, so as to offer a proper comparison with the Gortynian.

The Attic laws of inheritance were firmly based on the principle of male succession. The daughter inherited only if she had no brothers, and was looked upon as an heiress (*epikleros*), during her father's lifetime, as after his death,<sup>4</sup> becoming a means of conveying property to another male, as the regulations make clear. If she was unmarried, she could, if her father had not otherwise

<sup>1</sup> VII 13-IX 24; XII 6-19.

<sup>2</sup> Cf. *πατροικός* Hdt. 6.57. The etymology emphasizes the relationship of the daughter in a patriarchal property system. So does the Athenian *ἐπίκληρος*, even more emphatically; cf. *ἐπικληρίδι* Hsch., perhaps at Gortyna (cf. SGDI 4969 with IC 4.8), also *Delph.* 3(1).294V7.

<sup>3</sup> DHR I 469-70.

<sup>4</sup> Poll. 3.33.



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provided, be claimed in marriage by the next of kin, who was entitled to divorce his own wife in order to marry her. If she was married, her marriage could be dissolved directly by judicial decision, and the next of kin could, and often did, demand to marry her,<sup>1</sup> whether she had children or not. (The claimant, however, could forgo his rights if he pleased.)<sup>2</sup> The property of the heiress passed to her son as soon as he came of age.

That such regulations were acknowledged to be severe is clear from Plato, who, though making possible a plea of exemption in particular cases, nevertheless follows the generally accepted principles of Greek law, as he knew it, in laying down provisions for heiresses.<sup>3</sup> The Athenian legislation is fully in keeping with the frank statement of an orator: 'We have courtesans for our pleasure, concubines for the daily needs of the body, and wives to keep guard over our household goods and to bear legitimate children.'<sup>4</sup>

The advance of Athens to the leading economic position among Greek states in the fifth and fourth centuries was accompanied by this severe encroachment upon the liberties of its women. The point receives confirmation from an analysis of the position at less economically advanced Gortyna.

The Gortynian *patroikós* was, we are informed,<sup>5</sup> the daughter who has no father and no brother of the same father. She inherits all her father's property but is under an obligation to marry the next of kin. The order of priority of the claimants is stated.<sup>6</sup> Her paternal uncle comes first, and if there are several, the oldest of them. If there are several heiresses and several paternal uncles, they are to marry in order of age. If there are no paternal uncles, she is to marry her paternal cousin, and the eldest if there be more than one. If there are several heiresses and several paternal cousins, they must marry in order of age of the brothers. This order of priority is in accordance with the order of the heirs which is given earlier,<sup>7</sup> and which has been discussed, where the brothers of the dead man and their offspring are named next in succession to the children and grandchildren. But here, only paternal uncles and their sons are considered, the law making no mention of grandchildren, presumably because they would be too young to qualify.<sup>8</sup> Nor are sisters' sons taken into account.<sup>9</sup>

<sup>1</sup> L. 3.64; D.863, 867.

<sup>2</sup> L. 10.5.

<sup>3</sup> Lg. 923-6.

<sup>4</sup> [D.] 1386.

<sup>5</sup> VIII 40-2.

<sup>6</sup> VII 15-27.

<sup>7</sup> V 9-28.

<sup>8</sup> Cf. Guarducci *ad loc.*

<sup>9</sup> Cf. Pl. Lg. 924 e: ἀποθανόντος ἀδελφός—ἀδελφοῦ παῖς—ἀδελφῆς παῖς—πατρός ἀδελφός—τούτου παῖς—ἀδελφῆς πατρός ἐγγονός—γένος.

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These details are followed by a special regulation stipulating that the groom-elect is allowed to marry one heiress and no more. The emphatic nature of this prohibition has evoked a variety of interpretation. Merriam's purely formal explanation: 'This seems added in consequence of the inadequate and clumsy expression of the preceding clause', breaks down, because the preceding clause (*αἱ δὲ κα πλῖες ἱόντι πατρῷοί τε καὶ υἱές τε ἀδελφεὶ τε ἀπολεθαι τοῖς ἐν τοῖς ἐξ τοῦ προειρητιστοῦ*, i.e. 'If there are several heiresses and sons of brothers, they shall marry the second in order after the son of the eldest (and so on)', VII 24-27) is neither inadequate nor clumsy. Comparetti's interpretation was that the same person cannot marry more than one heiress, if the first one dies. The comment of Dareste was that, if there were more daughters than uncles or cousins, the surplus daughters remained free, because the more distant relatives were not eligible and each groom-elect could only marry one heiress: which undoubtedly implied, not merely that he could not marry more than one at a time, which goes without saying, but that his rights were fully met by a single marriage or the alternative legal indemnity; he could not, if he were widowed or divorced, lay claim to the next heiress. Guarducci, whilst stating Comparetti's view, prefers to think that those who have found in the passage traces of the practice of marrying two or more wives may be more correct.

Bearing in mind the generally amending character of the legislation, we are compelled to examine this view in some detail. For the prohibition is more likely to have arisen out of concrete conditions, which rendered its introduction a necessity, than out of regard for purely theoretical contingency. The principle here laid down of the claim to an heiress by her father's brother, although emphasizing the growing power of patriarchal rights, equally emphasizes the social and legal importance of the heiress, which has been explained as a vestige of matrilineal descent.<sup>1</sup> Nor was this principle peculiar to Greece. It is enacted in the Book of Numbers:<sup>2</sup> 'If a man die, and have no son, then ye shall

<sup>1</sup> The fact that, even in classical times when succession was through males, the claim of a woman, who had no brothers, to the family land remained paramount points distinctly to a time when all property descended through women.' Ridgway CP 148. Cf. Thomson on A. Es. 212 (OA II 264-5), where a type of marriage common in the Greek genealogies, namely marriage with the daughter of a brother or of a father's brother, is related to the development of the Attic law of inheritance.

<sup>2</sup> Num. 27.8.



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cause his inheritance to pass unto his daughter.' The consequences then become apparent: 'And if they be married to any of the sons of the other tribes of the children of Israel, then shall their inheritance be taken from the inheritance of our fathers, and shall be put to the inheritance of the tribe whereunto they are received: so shall it be taken from the lot of our inheritance.'<sup>1</sup> Hence it was further enacted: 'And every daughter, that possesseth an inheritance in any tribe of the children of Israel, shall be wife unto one of the family of the tribe of her father, that the children of Israel may enjoy every man the inheritance of his fathers.'<sup>2</sup> The 'family of the tribe' here is the clan,<sup>3</sup> and it is made clear that the heiress was obliged to marry into her own clan to keep the property within the male line, and thus within the clan. This regulation, however, still allowed her a certain freedom of choice: 'Let them marry to whom they<sup>4</sup> think best; only to the family of the tribe of their father shall they marry.' The development of the household as a subordinate unit within the clan explains the development of further restrictions in Gortyna; for the rights of the members of the household now conflict with the rights of the clansmen. But the same underlying principle throughout underlies these developments. 'Though later in date, the Gortynian procedure is more archaic than the Attic, and both rest on the same principle as the Jewish. The rule of exogamy, and with it the woman's liberty, had been sacrificed to the male interest in private property.'<sup>5</sup>

The rule of exogamy is equally violated by the rule of cross-cousin marriage, which is clearly established, if there are heiresses, but no father's brothers to marry them. Briffault, commenting on this provision for the marriage of ortho-cousins, observed that the practice of marrying the daughter of one's father's brother was, as an established usage, now almost confined to the Arabs; some other Muhammadan peoples in Egypt, the Sudan, Morocco and India; and had also been reported as being practised by some Basuto tribes, and in Madagascar: in every instance, it had been stated that the express object was to keep property in the same patriarchal family.<sup>6</sup> Briffault himself was 'very much disposed to think that the custom of marriage with the daughter of one's

<sup>1</sup> Num. 36.3.

<sup>2</sup> *Ib.* 36.8.

<sup>3</sup> Robertson Smith RS 276.

<sup>4</sup> The daughters of Zelophehad are referred to here: *ib.* 36.6; cf. 11-12.

<sup>5</sup> Thomson SAGS 139. Cf. *Plu. Sol.* 21.2.

<sup>6</sup> M I 58; and authorities cited *ibid.* n. 1-8.

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father's brother among the Arabs and some converts to their religion, although manifestly serving an economic interest, is in reality derived in the first instance from an older rule of cross-cousin marriage, and that it is, in fact, essentially an adaptation of the matriarchal rule to a patriarchal organization of kinship'.<sup>1</sup> With reference to the Gortynian rule, he stated: 'The matriarchal practice of inheritance through the daughters is here adapted to patriarchal economic aims, not by cross-cousin marriage, but by the form of cousin marriage which matriarchal custom condemns.'<sup>2</sup> (The form of cousin marriage which matriarchal custom condemns is the marriage of ortho-cousins as we have it so explicitly sanctioned at Gortyna; the cross-cousin marriage upheld by matriarchal, or more correctly, matrilineal, custom is the marriage of cross-cousins belonging to exogamous groups who have a compact of intermarriage. If the arrangement that every member, male and female, of each group marries into the other group is continued for generations, a relationship between all the members of the two groups will result, whereby all wives and husbands, in terms of our kinship system, will be the sons and daughters of brothers and sisters.)<sup>3</sup>

On the basis of comparative evidence, therefore, it is possible to advance the hypothesis that the existence of ortho-cousin marriage within the patriarchal household presupposes an original system of cross-cousin marriage within a matrilineal system, the result of a process of repeated modifications. Does such a hypothesis for Gortyna help to explain the prohibition we are seeking to motivate? The comparative and internal evidence alike suggest that it does.

Collective marriage of the form that has been briefly described above as cross-cousin marriage begins to break down when the mode of production becomes more and more individualized, and so comes increasingly into conflict with the collective organization of the producers. 'Each producer becomes more possessive as he becomes more self-sufficient. And so collective marriage breaks down. Instead of a group of brothers uniting with a group of sisters on equal terms, each brother marries one or more sisters on his own, with the reservation that they shall be accessible to the others when he is away from home. Later still, having established a prior claim on the inheritance as senior member of the

<sup>1</sup> *Ibid.* n. 9.

<sup>2</sup> *Ib.* 582.

<sup>3</sup> Briffault *ib.* 563-87; Thomson SAGS 58-78.



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clan, the eldest brother acquires a corresponding right to the whole group of sisters, leaving only the reversion of them to his juniors after his decease.<sup>1</sup>

The institution of the household is a kind of half-way stage between collective and individual forms of ownership and organization. Historically, it grows out of the clan, and it preserves the collective nature of clan organization within a more restricted sphere. The tendency is for it to become less and less collective until the autonomous family has rendered the household as obsolete a form of organization as the household had rendered the clan. The self-sufficient household is a prerequisite to the self-sufficient family. It is thus necessary to explain why the prohibition against marrying more than one heiress rendered the Gortynian household less collective.

The marriage of a group of sisters to one man is the sororate; and the right to an elder brother's widow or widows is the levirate. Both are world-wide customs.<sup>2</sup> Fraternal polyandry—a group of brothers married to one woman—is the converse of the sororate and is, from its nature, much less commonly attested. The sororate and levirate represent unilateral developments of individual marriage in favour of the sex which happens to be playing the more dominant role in production.<sup>3</sup> Because of the special part played in the whole development of private property by men, and because the social dominance of women tends to accompany the survival of common ownership and of group marriage in an unmodified form, fraternal polyandry, although almost as widespread in its distribution, is considerably less common than the sororate.<sup>4</sup> It is therefore of especial significance that, among the people of the ancient world who preserved the custom of fraternal polyandry,<sup>5</sup> the Spartans are prominent.<sup>6</sup> Where several Spartan brothers had one wife between them and the children were brought up in common, Nilsson was correct to infer that they must also have had a common household and common property.<sup>7</sup> The Spartans, as the most conservative element among the Greeks, most faithfully preserved their primitive customs, and we should naturally expect contemporary Cretan institutions to have ad-

<sup>1</sup> Thomson *ib.* 71.

<sup>2</sup> Evidence cited by Briffault *ib.* 614-29, 766-81.

<sup>3</sup> Thomson *ib.* 71.

<sup>4</sup> Briffault *ib.* 628.

<sup>5</sup> For the evidence relating to Medes, Etruscans, Romans, Teutons and Celts see Briffault *ib.* 691-7.

<sup>6</sup> Plb. 12.6. Cf. Plu. *Lyc.* 15; X. *Lac.* 1.9.

<sup>7</sup> GSL 329.

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vanced beyond the Spartan level, in this respect as in others which we have had occasion to notice.

The rule of succession to a deceased brother's widow, known as the custom of the levirate, well-nigh universal in its distribution,<sup>1</sup> is uniformly and rigorously observed wherever fraternal and clan-polyandry still prevails.<sup>2</sup> Now whilst there cannot be said to be direct evidence of the levirate in the Gortynian legislation, the strict rules of seniority which determine which next-of-kin shall have the right of marriage to an heiress can be interpreted as a survival of the practice. If we adopt this interpretation as being the most adequate original motive for such a rigid schematism, it becomes possible to understand the prohibition against marriage to more than one heiress as marking the legal extinction of the levirate.

The social and economic factors which are likely to have prompted the prohibition are, moreover, precisely those which fit naturally into such a development of the institution of the Gortynian household as we have been able, so far, conjecturally to recover. The practice of fraternal polyandry among the Spartans must have been favoured by the women, and must itself have favoured the preservation of the household and of landed property in their hands.<sup>3</sup> The breakdown of polyandrous custom, including the levirate, favours the transfer of individualistic property to the male members of the family. So that the prohibition against the marriage of more than one heiress would favour the individual appropriation of property by the males.

This conclusion is confirmed by the provision laid down elsewhere,<sup>4</sup> which favours those heirs who wish to make a division of the property, by instructing the judge to place it in the hands of those who wish to divide until the division has been effected. So that there are good grounds for assuming that the strict schematism of seniority in succession, closely related to a levirate system, has, in new conditions favouring a development towards individual male ownership, been used to favour monogamy. The rise of the

<sup>1</sup> Authorities relating to North America, Central and South America, Africa, Asia, Indonesia, New Guinea, Melanesia, Micronesia, Polynesia, Australia, cited by Briffault *ib.* 767-72. Cf. Westermarck *HHM* 3.208 f.

<sup>2</sup> Briffault *ib.* 769-70.

<sup>3</sup> In Aristotle's time nearly two-fifths of the land was owned by women and had fallen into few hands: *Pol.* 1270 a.

<sup>4</sup> Col. V 28-34.



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individual family had thus begun to be promoted by state legislation, on the basis, firstly, where necessary and acceptable,<sup>1</sup> of the marriage of kin within the household; and secondly, of division of the inheritance.

This tendency, however, was counteracted by a whole number of other legal practices which testify to the continuing strength of matrilineal institutions. Some of these practices are detailed immediately after the prohibition which we have just examined, and can now be considered; others will be reserved for later mention.

The detailed provisions which follow show that property and land must frequently have been at the disposal of women, and are generally agreed to indicate the relatively high social position of women in Gortyna.

In the first place, the position is clarified when the groom-elect or the heiress are too young to marry. In such a case, the heiress is to have the house, if there is one, and half the income from the property, and the groom-elect the other half (VII 29-35). A later provision,<sup>2</sup> concerning the administration of the property of the heiress who is too young to marry, indicates the process whereby the groom-elect came to be in a position to avail himself of half the income. For the administration is then declared to be the collective responsibility of the paternal uncles, of whom the eldest will, of course, normally be the groom-elect. How is this collective responsibility to be explained, since the groom-elect alone enjoys half the income? The most natural explanation is that we have here a further indication of an earlier state of affairs, when the paternal uncles had not merely a collective responsibility for the administration of the property of the heiress, but also a collective right to the heiress herself, merely represented now by the individual right of a younger paternal uncle to marry a younger heiress—an individual right that is strengthened by the prohibition against marrying more than one.

This same provision goes on to lay down a procedure which must have been normal before the household became a dominant institution, but now only applies if the heiress is too young to marry and if there is no groom-elect, that is, no one to press the claims of household endogamy in the interests of the male line.

<sup>1</sup> Where it was not acceptable, division was a consequence, as we shall see.

<sup>2</sup> VIII 42-50.

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The heiress is then entitled to possession of property and income, and is to be brought up by her mother until she is old enough to marry; if she has no mother, she is to be brought up by the mother's brothers. If the mother is alive, nothing is said about the administration of the property: it is taken for granted that this will be done by the mother in the interests of her daughter. Similarly, if there is no mother, that it will be done by the mother's brothers. The importance of the mother's brother, indicated here, is a survival of earlier matriarchal institutions.<sup>1</sup>

Further traces of older usages are to be found in the provisions regarding the marriage of the heiress when she is old enough to marry, but there is no groom-elect.<sup>2</sup> In such a case, she takes possession of the property and can marry whom she likes within the tribe. If no man from the tribe presents himself as a prospective husband, a curious procedure is followed. The relatives of the heiress are to proclaim throughout the tribe: 'Does no one wish to marry her?' If someone does then present himself, the marriage must take place within thirty days. If the proclamation brings no result, she can accept anyone who is willing to marry her. We may presume that the normal effect of this would be to allow a prospective husband from another tribe to present himself. If so, the historical development of Gortynian practice indeed bears a close resemblance to the Jewish, as outlined in the Book of Numbers. Each successive phase further restricts the right of free choice. The first phase allows of tribal exogamy; like the Jewish heiress, she would have been allowed to marry outside the tribe. Tribal exogamy then yields to tribal, or clan, endogamy. With the growth of the household, the right of exogamy is still further restricted, in the way that has been discussed above. The phases can still be recovered because there was always a necessity to provide for an alternative, when, from each successively developed sphere of limitation, no prospective husband presented himself, and the older usage was allowed to stand.

The necessity for this provision is further occasioned by the continuing social and economic importance of the heiress, marked by the continued exercise of her right, within limitations that are both important and revealing, to opt for a freer choice than that prescribed by existing legal injunctions. While the right of the tribesmen to exercise *their* claim, and for the heiress to respect

<sup>1</sup> Briffault *ib.* 394; cf. Thomson SAGS 149-99.

<sup>2</sup> VIII 8-20.



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that claim, subject to a specified time-limit, here and in other cases, may perhaps best be explained, as was suggested earlier,<sup>1</sup> on the hypothesis that the tribal divisions of land were still preserved.

Before passing on to illustrate this principle from the further regulations grouped under this general topic, it is first necessary to examine a provision which occurs at the very end of the Code, and which complicates the question of the administration of the estate of the young heiress, apparently already satisfactorily disposed of in the way we have just discussed.

The passage<sup>2</sup> lays down that: 'If heiresses have no *orphanodikastai* (officials appointed to look after the affairs of orphans or minors) while they are *anoroi*, they are to be treated as prescribed. And where, in default of a groom-elect or *orphanodikastai*, an heiress is brought up by her mother, *τὸν πατέρα καὶ τὸν μητέρα τὸνς ἐγγαμμένονς* are to administer the property and the income, to the best of their ability, until she marries.' The paragraph concludes with the injunction, already discussed, that she shall marry at twelve or older.

All this is clearly at variance with what has been previously laid down, and a number of solutions to the contradiction have been proposed. For example, an obvious way of reconciling the two sets of regulations is to suppose, either that *τὸν πατέρα* cannot here mean 'paternal uncle', because he would normally be the groom-elect, and therefore, since the cause of the provision is the absence of a groom-elect, another relative on the father's side must be intended;<sup>3</sup> or that *τὸν πατέρα* does mean a 'paternal uncle' who is already married and therefore not a groom-elect;<sup>4</sup> or that he has renounced his rights or cannot make them valid because he is married, perhaps even already married to an heiress.<sup>5</sup> The chief difficulty about such reconciliations is their plausible evasion of the contradiction.

An explanation that admits, rather than evades, the contradiction, is bound to demand more serious consideration. Guarducci points out<sup>6</sup> that the end of the Code (Cols. XI 24-XII) seems to have been cut by a different hand, and argues that the provision in Col. XII may be inferred to have been a somewhat later addition, and thus differs from the first, in VIII 42 ff. (see p. 76). Moreover, that the words *τὸνς ἐγγαμμένονς* indicate that

<sup>1</sup> P. 28. <sup>2</sup> XII 6-17. <sup>3</sup> Merriam *ad loc.* <sup>4</sup> Roby *ad loc.* <sup>5</sup> DHR I 477. <sup>6</sup> *Ad loc.*

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the subject had been treated in an older law, inscribed elsewhere, which must be assumed to have perished. The paternal and maternal relatives,<sup>1</sup> adds Guarducci, had already (in Col. IX 3 ff.) been given the power of selling or mortgaging the property of the heiress. The argument concludes with an appeal to the analogy of Plato, who, in the Laws,<sup>2</sup> provides that the next of kin, two on the father's and two on the mother's side (and one of the friends of the deceased), shall have the authority of guardians.

Now the fact that various supplementary provisions to the Code begin to be added at the point where Guarducci finds the first indication of a later hand (XI 24), is a further argument in favour of the suggestion that our second set of regulations are a later insertion. But there are serious weaknesses in the argument that the provision is connected with earlier legislation.

The most apparent, if not the most weighty, objection is the necessity for assuming that an older law was inscribed which has disappeared. The testimony of this assumed witness is bound to be unconvincing. Secondly, there is no mention of *orpanodikastai* in the earlier regulations. Thirdly, we should normally expect the legal context of a later amendment to the Code to be itself the product of later, and not earlier, legislation.

The context makes it clear that the regulations are, in fact, a later amendment. The opening statement implies that the *orpanodikastai* are a new element. For it is made clear that, if there are none, but if (presumably from what follows) there is a groom-elect, the procedure as already laid down is to be followed, that is, surely, as laid down in VIII 42 ff., where the paternal uncles are given the administration of the property. We can therefore assume that the *orpanodikastai* were a later development, whose existence could modify the earlier arrangement, not only where the administration had been the responsibility of the paternal uncles, but where the heiress, failing a groom-elect, had been the responsibility of her mother or maternal uncles. This second

<sup>1</sup> The translation 'relatives' is to be preferred here, and also in IX 3 ff., partly because when the paternal uncle is given the right of marriage to the heiress, he is specifically referred to as such: τὰν πατρ[ι]οῦ[ς] ἀντιθέτω ἀδελφῶν τὸ πατρὸς (VII 15-17). But the translation 'paternal uncles' for πατρῶες in VIII 44, as administrators of the estate, is there justified because they are collectively the nearest male relatives, of whom the eldest is the groom-elect. Guarducci suggests that in VIII 42 ff., if there are no uncles, other relatives on the father's side are perhaps intended. Since cousins would be the next possible husbands, this is likely.

<sup>2</sup> Lg. 924 a-b.



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contingency is now further modified. For, in the absence both of groom-elect and of *orphanodikastai*, the relatives in the male as well as the female line are given joint responsibility in the administration of the affairs of the heiress until she is old enough to marry. The purpose of this further amendment to the formerly established procedure of administration is clear: it entails a further encroachment upon the rights of the female kin.<sup>1</sup> Since we have seen patrilineal rights encroaching on matrilineal at each successive phase of social development, the case for arguing a later amendment is strengthened so much the more. Bearing in mind the earlier discussion of the topic (in Chapter I), we may add that the final sentence, making the heiress marriageable at twelve, is also likely to have been a later, rather than an earlier development.

The mention of paternal and maternal relatives in Col. IX 3 ff. is not a good analogy. For there, the paternal and maternal relatives would, in any case, be involved, because of their material interest in the property. The Platonic analogy, though apt, can hardly be said to strengthen the argument for an early date for the practice; the contrary is more likely. The words *τοὺς ἐγγασμένους* might well mean 'those who have been nominated' to represent paternal and maternal relatives, perhaps by the deceased.

We must now turn to examine the rights of freer choice which still remained to the heiress in particular circumstances, in spite of the encroachments of the general provisions for her marriage and the administration of her property and income.

After the provision for the disposal of house and income when the heiress and the groom-elect are too young to marry (VII 29-35), there follows the passage already quoted and discussed, to the effect that the heiress, when she is *ebionsa*, shall have all the property and the income, if the groom-elect, who is *ebion* but still *apodromos*, is unwilling to marry her, until such time as he consents.<sup>2</sup>

If, however, a groom-elect who is *dromeus* refuses to marry an heiress who is both *ebionsa* and willing to marry him, the relatives of the heiress are obliged to bring the matter to court, and the

<sup>1</sup> Legal guardians, especially if approved by the *kosmoi* (cf. Guarducci on XII 7), represent an advance of state power at the expense of tribal custom.

<sup>2</sup> VII 35-40. Cf. p. 7.

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judge must order the marriage to take place within two months. If the groom-elect does not marry the heiress after this period has expired, he forfeits his rights in the property, which then devolve upon the next eligible groom-elect who now has the right of marriage to the heiress. If there is no such alternative groom-elect, the heiress is free to marry anyone who wishes to marry her from within the tribe.<sup>1</sup>

A number of general observations can be made on all these possible contingencies where the refusal to marry comes from the groom-elect. In the first place, since there is no evidence that sentiment could have been an important factor in Cretan marriage,<sup>2</sup> it is significant that it was apparently not unusual for a groom-elect to refuse the heiress and such economic advantages as might go with her. The explanation must be sought in the continuing matrilineal character of marriage, a marked feature of Greek marriage generally,<sup>3</sup> which is imprinted on the Gortynian law, as we shall see.

The property rights which a man would acquire by marriage to an heiress are derived from her, and offered to him so that he may fulfil the economic function of keeping the property as a whole within the male line. Not only would the wife never become part of her husband's family, but she would continue to exercise independence over her own property. When such economic interest as he might acquire was likely to be small, there would be all the more inducement for the man to shirk the duty prescribed for him. In the case of an *apodromos*, another factor might also very likely have operated, especially in the early stages of the concession of early marriage granted to him as a groom-elect. Economic inducement would have to contend with the long-established tradition that he should marry with his fellows after leaving the *agela*.

Finally, and this is a provision which occurs again, it is noteworthy that the heiress who has been refused by one groom-elect, in default of others, is allowed to marry within the tribe (VII 50-2). Again there is a reversion to tribal endogamy. But nothing is said about the possibility of her marrying outside the tribe, if no one within the tribe is willing to marry her. Such a possibility

<sup>1</sup> VII 40-52.

<sup>2</sup> It was definitely not an important factor in Greece. Cf. Müller D 2.298.

<sup>3</sup> Briffault M 2.339.



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is, in fact, only mentioned where grooms-elect are absent in the first instance. The inference is that the legal rights of a groom-elect who refused to marry the heiress could only be transferred within the limits of his tribal kin. If she did not marry within these limits, there was nothing to prevent her marrying a serf. But her children would not be allowed to inherit. Instead, presumably, the collective rights of the serfs who composed the *klarai* were given legal priority. Where, on the other hand, the heiress was wholly unencumbered by the prerogatives of male relatives, and her own relatives had satisfied the legal requirements of proclamation within the tribe, she could, if she wished, fully exercise her ancient rights of exogamy.

In spite of its clear definition of the principle of marriage to male kin, the law concedes that the heiress, no less than the groom-elect, may be unwilling to abide by the principle, if she is at the same time willing to suffer the economic penalties involved in refusal.<sup>1</sup> For if the heiress, who is *ebionsa*, refuses to marry the groom-elect, or if the groom-elect is too young to marry and she is not willing to wait, she can take the town-house, if there is one, and all that is in it, and half the remainder of the property, and marry within the tribe. The rejected groom-elect takes the other half, and this is presumably sufficient to satisfy not only his own claims, but those of other male relatives who would normally have claims to marriage. It is an individual and a collective compensation. Having paid it, the heiress is freed from further obligation to marry within the household and can marry within the tribe.

The next set of regulations concerns the woman who has already been given in marriage by her father or brother, and then later becomes an heiress.<sup>2</sup> Such an heiress is allowed to terminate her existing marriage, should she so desire, even if her husband is unwilling. But she is not equally free in the choice of another husband. For, in the first place, if there are children of her first marriage, she can marry again within the tribe, but must share the property as is prescribed, that is to say, not, as in all other similar cases envisaged by the law, with a male relative, but with her children.<sup>3</sup> The male relative's obligation to marry and his

<sup>1</sup> VII 52-VIII 8.

<sup>2</sup> VIII 20-30.

<sup>3</sup> Division with the groom-elect is unlikely because, in the prevailing conditions, the existence of children renders his role superfluous; and division with the first husband more unlikely still. Cf. Guarducci *ad loc.*; DHR I 473-4.

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right to the property are waived because of the existence of children. But the law carefully ensures that the heiress and her remaining property shall remain within the tribe.

In the case where there are no children, the heiress is obliged to marry the groom-elect, whose obligation to marry her is revived by a decision of the heiress to abandon a childless first marriage. The heiress can refuse the obligation by sacrificing half the property, the groom-elect likewise. If there is no groom-elect, the same procedure is followed as with the unmarried heiress, that is to say, she can marry within the tribe, or, if no one from the tribe presents himself, outside it.

It is interesting to see how the possession of property gives the heiress an initiative in divorce and an opportunity to make a more advantageous marriage; an opportunity, however, which is circumscribed by the property claims both of her male relatives and of the tribe. The Gortynian provisions are certainly more lenient than the Athenian, which allowed the next of kin to demand the dissolution of the first marriage in his own interests. This should not, as we have seen, be considered as the outcome of more enlightened legislation, but as the reflection of a more archaic system of property relations which was more favourable to women, and into which serious inroads have already been made in the interests of the newer form of private property, favouring the interests of the male.

In the case where an heiress becomes a widow,<sup>1</sup> the same general principles are followed as have been described above. If she has children, she may marry within the tribe, but cannot be forced to do so; but if there are no children, she is under obligation to marry the groom-elect, along the lines described in earlier regulations. Again the law favours children rather than grooms-elect, since the heiress who is a mother is allowed to remain with her children. Nothing is said about property. But it is clear that this belonged to the heiress if she remained with her children, or if there were no children and she married the groom-elect.<sup>2</sup> But if she had children and married again, presumably half the property would go to the children,<sup>3</sup> and again the rights of the groom-elect are waived, but the rights of the tribesmen clearly asserted. Here again the law speaks of an heiress marrying any member of the

<sup>1</sup> VIII 30-36.

<sup>2</sup> Cf. VIII 24 f. and Guarducci *ad loc.*

<sup>3</sup> Cf. Guarducci *ad loc.*



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tribe 'she can'. Apart from the general conditions already discussed, which would occasion this formulation, we must also bear in mind that it would be more difficult for a widow with children to find a husband.<sup>1</sup>

The remaining regulations about the heiress have already been mentioned, with two exceptions. The first of these<sup>2</sup> rules that, if the groom-elect is abroad, the heiress is to marry the next claimant. The second,<sup>3</sup> that if marriage with an heiress is contracted, contrary to the regulations here laid down, the *epiballontes* must apply to the *kosmos*.<sup>4</sup> This general provision, giving the *epiballontes* the initiative in seeking redress against infringement, clearly indicates that the whole body of regulations has curtailed the rights of the heiress in favour of the male kin beyond the point reached by earlier legislation; and further, that these restrictions are fully supported by the authority of the state. That regulations about the heiress had undergone recent change is sufficiently clear from the internal evidence. That earlier regulations had existed may also be inferred from an old inscription placed in a group dating from the beginning of the fifth century.<sup>5</sup>

<sup>1</sup> Cf. Guarducci on VIII 32 f.

<sup>2</sup> VIII 36-40. An epitaph of Simonides reports the death of a Gortynian merchant whilst he was abroad. (AP 7.254 B: Κρής γενεὴν Βοόταχος Γορτύριος ἐνθάδε κεῖται | οὐ κατὰ τοῦτ' ἔλθων, ἀλλὰ κατ' ἐμπορίαν.) In the 5th C. we also learn of the Gortynian Entimos who was honoured by Artaxerxes I, King of Persia (ap. Ath. 48 d-f), and the copper-smith Sosinos who died at Athens (IG II-III<sup>2</sup>, 8464).

<sup>3</sup> VIII 53-IX 1.

<sup>4</sup> At Athens, the place of the *kosmos* was taken by the archons and, in the case of metics, the polemarch; at Sparta by the kings. Arist. Ath. 58.3.6 ff.; Hdt. 6.57.

<sup>5</sup> IC 4.44; perhaps also 56. Guarducci *ad loc.*

## X

### ADULTERY AND DIVORCE

**R**APE, seduction and adultery are dealt with in the Code as offences of the same category.<sup>1</sup> They are not regarded as criminal and public wrongs, but as matters for private monetary compensation. The reason for the lack of distinction in kind is to be sought in the differing outlook of primitive and mature law. 'In our modern English law this topic [of wrongful sexual intercourse] is divided into the wrong of intercourse with a woman, whether married or unmarried, against her will (namely, rape); and intercourse with a woman by consent, which latter is divided into adultery, where the woman is married, and seduction, where she is unmarried. These divisions do not tally with the divisions to be found amongst all tribes. In the law of some tribes, unlike our own, there is no difference in the sanctions for rape and for adultery; in others, unlike our own, there is a difference between the sanctions for rape of a married and of an unmarried woman.'<sup>2</sup>

The view of the civil nature of these injuries, and also the monetary compensation exacted for them, are equally characteristic of a certain stage of development and are in no sense unique. 'Reviewing the developed law of the tribes as a whole, apart from the substantial number of cases of intercourse for which there is no punishment at the civil law, we observe firstly the great preponderance of pecuniary sanctions, and secondly, the modest size of the sanctions.'<sup>3</sup> Hence, these particular provisions of the Code have rightly been described as belonging to old-established custom.<sup>4</sup>

The fines for rape have already been quoted (p. 33), and their chief interest for us, as it appears to have been for those who

<sup>1</sup> II 2-45. It has been argued that seduction is not dealt with separately in II 16-20 (DHR I 455), but the internal evidence suggests that it is (Guarducci *ad loc.*) and the comparative evidence is decisive.

<sup>2</sup> Diamond PL 323.

<sup>3</sup> *Ib.* 324-5. Cf. Briffault M 2.132-8.

<sup>4</sup> Guarducci *ad loc.*, citing De Sanctis SDG 1.511.



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framed the regulations, is the differentiation they seek to establish between members of various classes. But the regulations specifically concerned with adultery help us, in a number of ways, to establish a clearer definition of the nature of Cretan marriage at this period.

The lack of distinction in kind between the offences of rape and adultery is emphasized by the fact that the scale of fines for adultery is, in general, the same as that for rape, with two important exceptions. In the first place, it is laid down that adultery with a free woman is punishable by the full fine of one hundred staters only if the offence occurs in the house of her father, her brother, or her husband; if in another house, by a fine of fifty staters. It is clear that less blame attached to the culprit in the latter case. Nor should the mention of father's and brother's house lead us to suppose that seduction of an unmarried girl is here intended to be implied, as opposed to adultery in the husband's house.<sup>1</sup> The reason why, in enumerating the places where adultery is likely to be committed, the woman's paternal home is mentioned first, then her brother's, and lastly her husband's, lies in the basically matri-local character of Cretan marriage.<sup>2</sup> This fact is attested by the passage from Strabo, already quoted and discussed.<sup>3</sup> But Strabo cannot be quite correct in explaining the sojourn of newly married women in the paternal house as due to their youth and inexperience, since, in other parts of Greece, girls married at twelve and went to live in the husband's house.<sup>4</sup>

Secondly, nothing is said about adultery between a free man and the wife of a serf. It is extremely unlikely that this omission is accidental, and the natural conclusion is that the law allowed no redress in such cases. Nor can the discrimination in favour of the free citizen be explained on the ground that the fine for adultery is nothing more than a substitute for the ancient right of life and death over the person of an adulterer, attributed by the custom of all peoples to the husband and relatives, which right could not be conceded to a serf over a free man.<sup>5</sup> For this supposedly universal custom is, in fact, the exception rather than the general rule.<sup>6</sup>

<sup>1</sup> Guarducci *ad loc.*; DHR I 453 n. 1.

<sup>2</sup> Cf. Briffault M 1:394.

<sup>3</sup> 10.482. Cf. p. 13.

<sup>4</sup> Pointed out by Nilsson GSL 330.

<sup>5</sup> DHR I 453.

<sup>6</sup> '... the so-called unwritten law, under which a man may slay an adulterer found in *flagranti delicto*, is uncommon among the tribes.' Diamond PL 325. Cf. Briffault 2:112-17, 129-38.

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In fact, the omission emphasizes the difference between the 'laws of Minos' and the law of the Cretan aristocracy. For the view that adultery is a male invention,<sup>1</sup> and that it is an offence under patriarchal, but not under matriarchal conditions,<sup>2</sup> receives confirmation from the comparative Greek evidence, which shows an increasing harshness of attitude as we pass from more backward to more advanced communities.

In Sparta there were no adulterers, 'not because the women there were so virtuous but because that which could be called adultery simply did not exist'.<sup>3</sup> A story told by Plutarch<sup>4</sup> emphasizes the fact. A stranger once asked an old Spartan, Geradas, what was the punishment in Sparta for adulterers. The answer was that there was no adultery. But the stranger pressed his question: 'But suppose there should be one?' The answer was that an adulterer would have to set up a huge bull which would stretch its head over Mount Taygetos and drink from the Eurotas. 'But how could a bull be so huge?' the stranger objected. 'But how could there be an adulterer in Sparta?' replied the old man.

Both Plutarch<sup>5</sup> and Xenophon<sup>6</sup> report that a woman, with the consent of her husband, could have intercourse with another man. After describing the custom, attributed to Lykourgos, that the husband should visit his wife furtively, Plutarch continues:<sup>7</sup> 'After giving marriage such traits of reserve and decorum, he none the less freed men from the empty and womanish passion of jealous possession, by making it honourable for them, while keeping the marriage relation free from all wanton irregularities, to share with other worthy men in the begetting of children, laughing to scorn those who regard such common privileges as intolerable, and resort to murder and war rather than grant them. For example, an elderly man with a young wife, if he looked with favour and esteem on some fair and noble young man, might introduce him to her, and adopt her offspring by such a noble father as his own. And again, a worthy man who admired some woman for the fine children that she bore her husband and the modesty of her behaviour as a wife, might enjoy her favours, if her husband would consent, thus planting, as it were, in a soil

<sup>1</sup> Thomson SAGS 98.

<sup>2</sup> Briffault 3.257.

<sup>3</sup> Nilsson GSI. 327.

<sup>4</sup> *Lyc. 15. Apophth. Lac. 223 b.*

<sup>5</sup> *Lac. Apophth. 242 b.*

<sup>6</sup> *Lac. 1. 7-10.*

<sup>7</sup> *Lyc. 15 (Perrin's translation).*



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of beautiful fruitage, and begetting for himself noble sons, who would have the blood of noble men in their veins.'

Xenophon adds that this could happen only if the lover did not wish to have intercourse with his own wife, and that the sons born of these unions had no claim on the inheritance of their foster-fathers. Westermarck<sup>1</sup> found no counterpart of this custom in any people, ancient or modern, savage or civilized. But Strabo adds only one of numerous parallels<sup>2</sup> when he says that it was the custom of the Tapyroi to give their wives in marriage to other husbands, as soon as they had two or three children, 'just as in our times in accord with the ancient custom of the Romans, Cato gave Marcia in marriage to Hortensius by request of the latter'.<sup>3</sup>

It seems that the condition mentioned by Xenophon owes its origin to later eugenic interpretations of Spartan custom.<sup>4</sup> But to say that his further statement: *αἱ τε γὰρ γυναῖκες διττοὺς οἴκους βούλονται κατέχειν* ('For the wives want to take charge of two households') 'adds to, rather than detracts from, the puzzle',<sup>5</sup> is to abandon the search for historical motivation altogether. For the testimony of Philo Judaeus,<sup>6</sup> far from providing, according to Michell,<sup>7</sup> 'another, apparently insoluble puzzle', substantiates Xenophon's explanation. According to Philo, Spartan law allowed marriages between half-brothers and sisters by the same mother but different fathers, forbidding marriages between half-brothers and sisters of the same father but different mothers. He says that this was the opposite of what Solon regulated for Athens.<sup>8</sup> From this Michell himself concludes:<sup>9</sup> 'If Philo is right with regard to Spartan law, the only explanation must be that by allowing a half-brother and sister by different fathers to marry, the estates of both fathers might be combined on their deaths; while if a half-brother and sister of the same father married, only the estate

<sup>1</sup> HHM 130. Cf. Michell S 55.

<sup>2</sup> Briffault on wife-lending and exchange M 1.609 n. 2; as an ancient custom at Rome, Thomson SAGS 143 n. 206.

<sup>3</sup> 11.513.

<sup>4</sup> 'There is no justification for the eugenic point of view; the tradition about the laxity of sexual relations in Sparta is overwhelming, if we seriously examine the actual sources only.' Nilsson GSI 326.

<sup>5</sup> Michell S 57; but cf. *ib.* 60-1: 'And lastly, it is not by any means impossible that we have in these strange customs, if we accept them as actual facts, traces of the survival of primitive matriarchy, whereby descent is traced through the mother and not the father.'

<sup>6</sup> *De spec. leg.* 3.23 (393).

<sup>7</sup> Confirmed by D.1304; *Ph. Them.* 32.

<sup>8</sup> *ib.* 61.

<sup>9</sup> *ib.* 61.

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of the single father would be left; unless the sister was the sole heiress of her maternal grandfather, which might not be the case.<sup>1</sup> No clearer statement could be found of the continuing matriarchal property rights in Sparta, as compared with patriarchal dominance in Athenian property rights.

The lexicographers, in their interpretation of a proverbial saying, 'the laconic way' of obliging strangers, add a gloss to explain that the Spartans did not keep watch over their wives (*Λακωνικὸν τρόπον τὸ παρέχειν αὐτὰς τοῖς ξένοις ἥμισυ γὰρ φυλάττουσι Λάκωνες τὰς γυναῖκας*).<sup>2</sup> This explanation, typical of the Attic view, should warn us of the dangers of subjective interpretation.

In Crete, at the time of the Code, adultery has taken on the character of a civil wrong punishable by fines, the Homeric *moichagria*.<sup>3</sup> The stated procedure<sup>4</sup> has its analogies in German and Scandinavian law,<sup>5</sup> and clearly shows that adultery was a private tort concerning the individuals and families affected. The offender was taken prisoner by the family he had trespassed against. His own family, or his master, according as he was free or unfree, were informed, in the presence of witnesses, that they must ransom the culprit within five days, or his captors would deal with him as they thought fit. But the law envisages the possibility that a claim for compensation may degenerate into a means of exploitation, which, in view of the modern parallels,<sup>6</sup> emphasizes the relatively primitive character of the rules still in force. For if the person charged with the offence declares that he is the victim of a plot, the case then ceases to be purely a family concern and the captor is obliged, along with his witnesses, who vary in number according to the amount of the fine, to swear to his testimony on oath.<sup>7</sup>

The evidence of Aelian,<sup>8</sup> deriving from Ephoros or Theophrastos, must refer to a later stage of development, when the state had taken over, wholly or partly,<sup>9</sup> the punishment of adultery from the family. According to Aelian, the culprit who was caught in the act was taken before the magistrates, and if he was convicted, had to pay a fine of fifty staters to the state, lost his civil rights and was excluded from public employment.

<sup>1</sup> Hsch., Suid., Phot.

<sup>2</sup> *Od.* 8.332.

<sup>3</sup> *Col.* II 28-36.

<sup>4</sup> DHR I 453.

<sup>5</sup> Briffault *M* 2.134-6.

<sup>6</sup> *Col.* II 36-45.

<sup>7</sup> *VH* 12.12.

<sup>8</sup> DHR I 451 and n. 3. It is possible that the fine payable to the family may have been exacted, at least for a time, in addition to that exacted by the state.



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The Athenian attitude to adultery puts the whole development in perspective. The ignoble position of women in Athens is familiar, as is the fact that their infidelity was harshly judged. But, in spite of their seclusion, perhaps to a large extent because of it, adultery appears to have been common. It was the concern of husbands and guardians not to give women the opportunity. The evidence of the orators proves that the doctrine that a wife was her husband's property was carried out to the full, and any offence against his property was harshly punished by law. A husband who found another man in his house was allowed to kill him; and the offence and punishment were the same if a wife or a concubine were concerned in the intrigue. It was a greater crime to make love to a woman who belonged to another man than to violate her. The offence was viewed solely from the male side, and a married woman, who, by consent, became another man's lover, outraged her husband's vanity and sense of possession more deeply than if she were raped. The lover could be put to death; the ravisher paid a fine.

Yet, in spite of this state of affairs, tradition maintained that conditions in Athens had once been more similar to those which could still be observed in Sparta. The first king of Athens, Kekrops, was supposed to have invented marriage. Before that time, so tradition said,<sup>1</sup> there had been no marriage; sexual intercourse was promiscuous, sons did not know their fathers, nor fathers their sons. The children were therefore named after their mothers. Because of the influence alike of tradition and of the reality not far distant from them,<sup>2</sup> it is not surprising that the close connection between forms of marriage and forms of property relations was not overlooked by Greek writers. Both Aristophanes and Plato recognized that community of property was accompanied by community of wives.<sup>3</sup> Plato's advocacy of sexual communism was echoed by the Cynics;<sup>4</sup> and it was recalled in Stoic tradition.<sup>5</sup> Philosophic speculation in the matter was based upon the reality of a historical process whose details of development can broadly be recovered. One stage of development was marked by the provisions of the Gortynian Code.

<sup>1</sup> Clearch. 49; Clirax 10; Io.Ant. 13; cf. Varr. *ap.* Aug. *CD.* 18.9.

<sup>2</sup> Not only in Sparta. Thucydides was aware that the 'Greeks lived once as the barbarians live now'. Th. 1.6.6.

<sup>3</sup> *Ar. Ec.* 581-615; *Pl. R.* 416 d, 423 e, 437 c-d, 464 b. *Cl. Ti.* 18 c-d.

<sup>4</sup> *D.L.* 6.72.

<sup>5</sup> *D.S.* 2.35-60; cf. Farrington *HHAG* 35-87.

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Both husband and wife had the right of divorce at their pleasure, a general characteristic of primitive law.<sup>1</sup> The regulations of the Code are as follows.<sup>2</sup> If there is a divorce, the wife is to have her own property, which she brought to her husband, half of the produce, if there is any from her own property, half of whatever she has 'woven' within the house, whatever it may be, and the sum of five staters, if the husband is the cause of the divorce. If the husband declares he is not the cause, the judge has to decide under oath.

If the wife takes away anything else belonging to her husband, she must pay five staters, and must restore whatever she carries off or purloins. If she wants to deny any such action, she must swear an oath of denial by Artemis. If anyone takes anything away from her after this oath of denial, he must restore it and pay five staters. If a stranger should assist the woman in carrying anything off, he must pay ten staters and twice the value of what he took away.

All of which goes to show that divorce could not have been rare, and that the main concern of the law was to safeguard property interests. Moreover, it is clear that the wife retained control over her own property after marriage, but that the produce from this property was shared with her husband. (We are reminded of the regulations concerning the administration of the property of the heiress.) It is difficult to say to what extent this entitlement can be regarded as a survival from more primitive conditions, when the husband would work the property and the usufruct would be the joint product of his wife's property and his own labour. However, that there may be some such explanation is made more likely by the remarkable provision of a fine only when the husband causes the divorce. Though the fine is not large, that there should be one at all, and in favour of the woman, is a further indication of surviving matrilineal conditions of marriage.

<sup>1</sup> Diamond PL 220, where an exception is made 'of the pastoral peoples, who, under the influence of their own particular economic circumstances, have in their 2nd Grade developed a special culture, in which polygamy is universally permitted, patrilineal marriage is predominant, divorce is difficult or at the will of the husband, the position of women is lower than elsewhere, and chastity is higher'.

<sup>2</sup> Col. II 45-III 16.



## XI

### DEATH OF HUSBAND OR WIFE

THE regulations<sup>1</sup> laying down the procedure in the event of the death of one or the other partner of a marriage further make it clear that, whilst husband and wife jointly shared the usufruct, they retained control of their individual property. Such property as the wife had received, either by way of dowry from her father or brother at the time of her marriage, or as part of her inheritance, would remain under her control. The husband could neither sell nor mortgage it.<sup>2</sup> But, whilst what the husband added to his original property by his further industry remained his own, that which the wife added to hers could be taken from her in certain circumstances.

When the husband died, and there were no children, the wife might marry again, if she wished, taking her own property, and whatever her husband might have given to her. Such a gift was probably normal,<sup>3</sup> and a later regulation<sup>4</sup> imposes a limit of one hundred staters. But the proceeds from her property and what she has 'woven' are not mentioned; so that she presumably lost the right to them, in favour of her children. For she is made answerable to the law if she takes anything else.

No regulations are specified for the widow who does not wish to remarry, so that all the property and the proceeds would jointly belong to the widow and her children.

If the widow is left childless, again there is an immediate division of possessions. The widow takes her own property, half of whatever she has 'woven', any gift from her husband, and a share of her own and her husband's joint usufruct. That is to say, if her husband leaves two brothers, her share would be only one third.<sup>5</sup> This arrangement could clearly be much less advantageous to the

<sup>1</sup> Col. III 17-37.

<sup>2</sup> VI 9-11.

<sup>3</sup> DHR I 457. Cf. the regulation about *νόμιμα* in III 37-40 and Guarducci *ad loc.*; cf. DHR I 459.

<sup>4</sup> X 14-17.

<sup>5</sup> DHR I 457. Cf. Guarducci *ad loc.*

## DEATH OF HUSBAND OR WIFE

widow than to the divorced woman, who took half, and has therefore been considered difficult to justify.<sup>1</sup> But it is a logical arrangement in a social system where the claims of kinship were still strong, and marriage not yet wholly a formal contract between two individuals. Again, the widow is made answerable to the law if she takes more than is prescribed.

It is an interesting fact that, both in the case of divorce and of death, it is only the wife who is envisaged by the law as likely to take away more than her share. This legal threat against the woman, and in the interests of the male, can again be explained as a feature of surviving matrilocal custom, favouring matriarchal property rights. But the law and the state are making inroads into these matriarchal rights.

If the wife dies, and there are no children, the regulations for division are the same as in the case of divorce. The husband must restore to the wife's heirs the property that belonged to her, the half of what she has 'woven', and half of the produce of her property.

Nothing is said about the case of the wife who dies leaving children. But the position is clarified in later provisions,<sup>2</sup> which make it clear that the property passed to the children, the father having the right to administer and control, but not to dispose of it. If he should remarry, he loses this right also. Here, the existence of children is an important factor in the preservation of matrilineal rights.

The dissolution of a serf marriage, either by divorce or death of the husband, is dealt with in a single brief regulation. The woman is allowed to take her own property,<sup>3</sup> and is made answerable to the law if she takes anything else. Thus, we have clear proof that a serf could own property. By property is here presumably meant movables,<sup>4</sup> including livestock.<sup>5</sup> The produce of the land and whatever the serf woman might have 'woven' would be the property of the master. It is remarkable that the property rights of the husband are not mentioned, either in case of divorce or death of his wife; and we can assume that we have here further indication that the serf community, in obedience to the 'laws of Minos', preserved to a greater extent than the free citizens, ancient forms of property rights associated with matrilineal descent.

<sup>1</sup> DHR I *ibid.*

<sup>2</sup> VI 31-46.

<sup>3</sup> III 40-44. Cf. the regulation of the Athenian law, whatever the status of the woman, who took back her dowry and no more, [D.] 1010; Is. 3.8; cf. 3.78.

<sup>4</sup> Guarducci *ad loc.*

<sup>5</sup> Cf. IV 36.



## XII

### CHILDREN BORN OUT OF WEDLOCK

**I**N view of the importance of legitimacy in a society where legal sanctions fostered the growth of patriarchal institutions, where citizenship was a privileged birthright, and where serf-labour was exploited by the master to whose estates the serfs belonged, it is natural that we should find special regulations in the Code<sup>1</sup> dealing with children who are born after divorce or out of wedlock. The paternity of such children had become a matter of legal concern, and had to be formally established.

In the first place, the law prescribes that if a free woman bears a child after divorce, she must take it to her former husband at his house, in the presence of three witnesses. If he does not accept the child, the mother then has the right to rear or expose it.

A similar procedure is followed when the mother is a serf, except that only two witnesses are required, and the child is presented, not to the former husband, but to his master. It is clear that the man's master was not necessarily the same as the woman's—in fact, the law does not envisage that possibility, either because the question of paternity would not then be an occasion for dispute, or, as is perhaps more likely, the rule of exogamy was more strictly followed by the serf community. It is also clear that the rights of the serf husband are usurped by his master, who decides whether to accept or reject the child. If he refuses it, the child reverts to the jurisdiction of the woman's master. The law then goes on to outline an exceptional provision which testifies to the importance of serf marriage as a factor in serf-ownership. For it is laid down that the child be under the jurisdiction of the man's master, if the divorced serf couple marry again within the year. The possibility that the necessity to establish proprietary rights over the child may have led to the normal exercise of some degree

<sup>1</sup> Col. III 44-IV 23.

## CHILDREN BORN OUT OF WEDLOCK

of persuasion or pressure on such a divorced couple to remarry, should not be overlooked.

If, however, an unmarried serf bears a child, it is put under the jurisdiction of her father's master or, if the father is dead, of her brothers' masters.<sup>1</sup> (The comparison<sup>2</sup> between the Gortynian law and the Roman law, which gave a bastard child to the woman's master, is not strictly relevant, because of the marked difference in the status and institutions of Roman slaves and Cretan serfs.) The provision has been explained as being due to the fact that the Gortynian serf family was organized on the model of the free family.<sup>3</sup> The unmarried free woman lived with her father or her brothers, and her illegitimate children would be their responsibility. In the case of a serf family, the consequence was the same, except that the rights of the serf had passed to the master who exercised them for him. This explanation is correct, except that it is more likely, for historical reasons, that the serf family served as the model, rather than the reverse.<sup>4</sup> It is interesting to see how the absence of marriage brings matrilineal traces to the fore. We observe again the importance of the mother's brother in this connection; and how the absence of a legal father allows the question of ownership to be decided automatically on matrilineal lines. Serf marriage not only established legitimacy but, likewise, ownership of the offspring on patrilineal lines.

If a divorced woman should expose her child before presenting it in the prescribed way, she must pay a fine of fifty staters in the case of a free, and twenty-five staters in the case of a serf child. But if the husband has no house where the child can be presented or if no one is found (that is, either the former husband or his master) to whom it can be presented, the exposure incurs no penalty. Now if the husband had no separate house, we may assume that, even before the divorce, the wife had been living with her father or brothers; in other words, the marriage, both in the case of serfs and the free, could not only remain matrilocal but, by virtue of its matrilocal character, gave an absolute power of discretion to the woman.

<sup>1</sup> The child could have several masters because serfs and land could be divided among heirs.

<sup>2</sup> DHR I 460-1; Guarducci *ad loc.*

<sup>3</sup> DHR I 461.

<sup>4</sup> Cf. the modification of the native institutions of the Hittites under Anatolian influence: Gurney H 100; Thomson SAGS 180.



## XIII

### DIVISION OF THE INHERITANCE

THE next set of regulations<sup>1</sup> concerns the division of property among the children of the family. The regulations have been referred to already, but since they present us with important evidence and equally important problems, it is necessary to give a full summary, even at the risk of some repetition.

The father is given power over the children and of division of property among them, and the mother power over her own property. As long as the parents are living, there is no obligation to make division of the property; except that, if one of the sons is condemned to pay a fine, his prescribed portion may be given to him. But when the father dies, the houses in the town and whatever there is in those houses, provided they are not occupied by a serf belonging to the country estate,<sup>2</sup> and the sheep and larger animals which do not belong to a serf, shall belong to the sons. But all the rest of the property is to be fairly divided, and all the sons are to receive two parts, all the daughters one part each. The mother's property, in the event of her death, is to be divided in the same way as is prescribed for the father's property.

If there is no other property except a house, the daughters are then to have a share as prescribed. If the father is alive and wishes to make a gift to his daughter on her marriage, he may do so, but only within the prescribed limits. A daughter may have what was given or promised to her by her father before the present law came into force, but is not entitled to any more of the paternal inheritance.

As for the woman who has no property, either (a) by way of gift or promise from father or brother, or (b) as an inheritance under

<sup>1</sup> Col. IV 23-V 9.

<sup>2</sup> αἱς καὶ μὲν φοιτεῖς ἐν τοῖς ἐν πόλει οἰκίαις (IV 33-35) has been variously interpreted. See p. 49 n. 4.

## DIVISION OF THE INHERITANCE

the regulations in force from the time when Kylos and his colleagues of the *startos* of the Aethalians formed the *kosmos*, she shall receive her share of the inheritance; no action, however, can be taken against those who have already benefited.

Although the law emphatically asserts the rights of the mother over her own property, the father is no less emphatically made responsible for the children and for division of property among them. We may infer then that, previously, the mother had not only controlled her own property, but had at least shared the legal responsibilities concerning children, which are now exclusively bestowed upon the father.

The continued existence of the parents is a safeguard against division of the estate, which the law elsewhere favours, if there is any wish for division among the heirs. But even this safeguard is expressed in a negative way. There may have been no legal compulsion to divide, but this does not rule out the possibility that the father or mother could proceed, if either so wished, to a division of his or her property among the children within the prescribed limits. Special provision is made for this contingency when a son is made liable for the payment of a fine.

For reasons already discussed, the houses in the city are given a special place as the homes of the heirs, emphasized here by the provision that the daughters must have their share (presumably including the right of shared occupation), if there is no other property. But the houses occupied by serfs belonged, as the serfs themselves did, to the estate, and so were regarded as part of the property which produced income, of which the daughters must have their share. The serf furnished his house from his own resources, and, as we have noticed, possessed cattle in his own right.

It has been pointed out<sup>1</sup> that the Athenians made no such distinction as is made here between real and personal estate. Sons received all the property in equal shares, but were expected to give the daughters a suitable dowry.

The sons are given a marked preference over the daughters in the share of the inheritance. Our attitude to the clearly enunciated right of the daughters to share in the inheritance at all must of course differ, according as we regard the legislation as the outcome of enlightenment or as marking one stage in a successive

<sup>1</sup> Merriam *ad loc.*



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encroachment of male property rights over female property rights. The concluding part of these particular regulations provides further proofs in favour of the latter view, and has caused confused interpretations to be offered by the advocates of enlightenment.

The crucial passage, in this connection, is that which refers to the legislation of Kyllös and his colleagues (V 5). It has been argued<sup>1</sup> that this passage refers, 'in obscure terms', to a previous law which appears to have bestowed upon daughters, for the first time, a share in the inheritance; and that previously, daughters at Gortyna, as elsewhere in Greece, did not inherit, except in default of sons. But, according to the other view of the legislation advocated here, we should expect the passage in question to worsen the position of women with regard to inheritance, compared with the previous legislation of Kyllös and his colleagues.

In fact, we do have an earlier fragment, which Comparetti<sup>2</sup> preferred to relate to the context of X 53-XI 1 ff. (referring to adoption and inheritance), although pointing out that it could relate to a law of inheritance prior to that of the Code. Dareste,<sup>3</sup> in spite of his advocacy of the opposite view, maintained that, if the law of Kyllös established an equal division among sons and daughters, it would be natural to seek a trace of it in this surviving earlier fragment. It has since been pointed out by Guarducci,<sup>4</sup> on the basis of a comparison of the usage of ἐνδομιον εἶμεν in the Kyllös context, and in VII 14 ff., where it is used with the dative, that it is possible to infer a veto on legal actions against those women who had previously received a greater portion than is allowed under the new regulations.

Where fact, even though somewhat tenuous, has attracted so much empirical attention, there is little need to hesitate about its support of a theory which we have seen good reason to maintain as a consistent guide in the elucidation of other apparently obscure points. Moreover, there are other indications in the context of this same set of regulations that daughters had previously been more generously treated. This is the meaning which can naturally be applied to the regulation that a father's gift to his daughter, on the occasion of her marriage, should have to conform now to the prescribed limits of her share of the inheritance, that is, half as

<sup>1</sup> DHR I 464. Cf. Guarducci *ad loc.*

<sup>2</sup> *Εἰς τὴν νόμον [α - θ] ἡ λεία*. MA 3 fr. 23. Cf. IC 4.20 (7th-6th C. a.c.).

<sup>3</sup> DHR I 464 n. 1.

<sup>4</sup> *Ad loc.*

## DIVISION OF THE INHERITANCE

much as the sons'. Again, if a daughter may continue to be entitled to what was given or promised to her by her father, before the present law came into force, *but is not to be entitled to any more of the paternal inheritance*, may we not assume that what she received, or what was promised, represented at least what is prescribed under the present regulations as her fair share? Otherwise she would have been unjustly penalized.

It may therefore be maintained that the meaning of the concluding regulations of the passage in question is likely to be as follows. Any woman who has no property, as gift or promise from father or brother (that is to say, probably, a woman who has not yet married); or any woman who has not received an inheritance under the terms of the legislation of Kyllós, must be subject to the new regulations now announced. While the women who have received, under the terms of the legislation of Kyllós, more than will henceforth be allowed, are given the right to continue in possession; that is to say, as usual, the legislation is not retroactive.

Hence, women shared the inheritance long before the present legislation, the effect of which was to deprive them of the larger benefits to which they had formerly been entitled, most likely on a basis of equality with their brothers. We should not interpret these regulations as setting a legal seal on the established custom of the dowry, making it the practice to assess the dowry in terms of anticipated inheritance,<sup>1</sup> but rather as a foretaste of the Athenian conditions, when the daughter could expect nothing but a dowry. By the following century it may well be that in Crete generally the daughter had only a dowry, fixed in terms of her formally legally scheduled inheritance (according to Strabo, a girl's dowry, if she had brothers, was half of the brother's portion).<sup>2</sup> But female inheritance comes before the dowry, which represents the economic perquisite originally bestowed on her husband by a matrilocal wife.<sup>3</sup> Consequently, the gifts which could, before the present legislation, be bestowed by a father on a marrying daughter would be in addition to her inheritance, and were perhaps made necessary by the disadvantage of matrilocal marriage from

<sup>1</sup> DHR I 465.

<sup>2</sup> 10.482.

<sup>3</sup> Briffault M 2.338: 'Where . . . small landed property, and the tribal rule that generally goes with it, constitute the chief form of propertied privilege, it is the woman who bestows it upon the man, and that essential economic aspect of archaic marriage is perpetuated in the "dowry" which the wife brings to the husband.'



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the man's point of view.<sup>1</sup> But such gifts would be at the expense of the son's inheritance. Hence there is a justifiable motive for the present legislation, which made such gifts conform to the prescribed scale of the female rights of inheritance, which were at the same time much reduced in comparison with the male.

<sup>1</sup> Such gifts would be similar to the *Zeðva* of *Od.* 1.277 and 2.196 (where *oĩ ðé* cannot be the suitors, but *oĩ ðμυλὶ τὸν πατέρα* as Eust. explained).

## PART FOUR

### THE STATE

*εἰ γὰρ ὁ Πλοῦτος βλέψει πάλιν διανείμειν τ' ἴσον αὐτόν,  
οὔτε τέχνην ἂν τῶν ἀνθρώπων οὔτ' ἂν σοφίαν μελετήσῃ  
οὐδεὶς.*

ARISTOPHANES





## XIV

### THE POLITICAL SYSTEM (1) EPIGRAPHIC EVIDENCE

THE way in which the aristocratic form of government was born within the earlier period of the monarchy is clearly portrayed in epic poetry.<sup>1</sup> It is significant that a petty chieftain of Crete should refuse to put himself under the orders of Idomeneus, prefer to lead his own troops independently, and assassinate the king's son who tried to deprive him of the spoils of war;<sup>2</sup> because, when Aristotle<sup>3</sup> informs us that monarchy formerly existed and had been abolished in Crete, it is the devolution of the king's military leadership upon the *kosmoi* that he emphasizes. His formulation throws an interesting light on the original function of the king as the leader of a tribal military democracy, and also on the subsequent usurpation of his powers (including that which had constituted the principal motive for his authority), by those among whom he had been *primus inter pares*, the lesser chiefs who became the leaders of new, aristocratic societies.

Ephoros makes no mention of the Cretan monarchy which is attested by Aristotle. But Herodotos<sup>4</sup> writes of a king named Etearchos, who ruled over the Cretan city of Axos. The only possible inscriptional evidence occurs in an early fragment from Lappa, where βασιλ (or perhaps βασιλ[ι]-?) can be deciphered.<sup>5</sup>

Though direct evidence of the institution is therefore slight, the unequivocal testimony of Aristotle establishes the common genesis of the Cretan, as of the Greek aristocratic regimes, in a form of royal leadership, at first motivated by the needs of warfare and

<sup>1</sup> Cf. Glotz CG 68-9.

<sup>2</sup> Od. 13.262 ff., cited by Glotz *ibid.*

<sup>3</sup> Pol. 1272 a 9-11: βασιλεία δὲ πρότερον μὲν ἦν, εἴτα κατέλυσαν οἱ Κοῦρες, καὶ τὴν ἡγεμονίαν οἱ κόσμοι τὴν κατὰ πόλεμον ἔχουσι.

<sup>4</sup> 4.154.

<sup>5</sup> IG 2 XVI.1, where it is dated about the beginning of the 5th C. B.C. Cf. Van Eiferterre CMG 100 n. 2.



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sanctioned by a tribal rank and file, later developing economic, political and legal privileges and functions proper to itself which, as they multiplied, were delegated to, and finally appropriated by, an *élite* which owed its existence to its proprietary powers over landed estates, which was distinguished by its property rights, privileges and functions from all other sections of the community, and which developed a political structure corresponding to its needs—the aristocratic state.

The literary sources of information about the Cretan forms of the aristocratic state, Ephoros and Aristotle in particular, are relatively late. But if we bear in mind that our fourth-century sources provide indications that the Cretan political structure had reached a stage of crisis, it is possible to supplement their accounts from the epigraphic evidence so as to recover an adequately firm outline of this political structure in its maturity.

The scanty information concerning the three main organizations of the Cretan state provided by our literary sources is both important and familiar. Because it is equally important, more abundant and much less familiar, the epigraphic evidence will be set out here first of all, and the conclusions which can be drawn from it will then be discussed in relation to the literary evidence. The first of the three organizations was the body known as the *kosmos* or *kosmoi*, whose basic importance in the whole aristocratic system is indicated by its name; secondly, the Council; and thirdly, the Assembly.

In the present chapter the salient features of the Cretan constitutions which can be drawn from an analysis of the epigraphic evidence will be summarized, from the earliest period down to the first century B.C. The conquest of the island by Q. Metellus, who organized Crete as a Roman province, occurred in 67 B.C. After this date, the history of Crete became part of the history of the Roman Empire, although many of its native institutions survived in various forms. Some of the lessons which can be drawn from these survivals will be indicated, but to pursue such matters further in any detail would be beyond the scope of the present survey.

## THE POLITICAL SYSTEM

### I. THE FIRST PERIOD (MID-SEVENTH TO APPROXIMATELY THE END OF THE SIXTH CENTURY)

The earliest inscriptions from Gortyna relating to the *kosmoi* already provide important and significant information. For example, the personal responsibility of state officials for state actions is an accepted practice. Of course, such personal responsibility of state officials for acts performed on behalf of the state was a characteristic feature of ancient Greek government.<sup>1</sup> Particularly in the aristocratic *polis* the state would not have appeared at first as an impersonal, abstract and apparently impartial force, but rather as intimately the concern of a particular section of the community. Thus, one of the earliest extant inscriptions from Gortyna<sup>2</sup> furnishes clear proof that, if a stipulated fine was not paid, the particular *kosmos* concerned in the matter was obliged to pay it himself. The fine would be paid by the *kosmos* after he had laid down his office.<sup>3</sup>

In this same inscription mention is first made of the official known as the *titas*.<sup>4</sup> A gloss of Hesychios explains: *τίταις εὐνογοί, ἢ κατήγοροι τῶν ἀρχόντων*; and it seems correct to connect the term with *tinein*. It is certain that they could call the *kosmoi* to account (made clear already here and in the Larian inscription), though the limits of their supervisory duties are difficult to assess precisely from the available evidence.<sup>5</sup> They have been compared<sup>6</sup> with the *logistai*, mentioned in an inscription from Itanos,<sup>7</sup> who, in Athens and elsewhere, were in charge of public administration. At Athens they were a board of ten, chosen from the Council by lot, to whom magistrates submitted their accounts when they retired from office. It may be that the *titai* of Gortyna were also appointed by the Council,<sup>8</sup> and charged with supervisory duties regarding fines, at least. From this inscription it seems likely that

<sup>1</sup> Cf. Guarducci IC 4 p. 70 on 14 g-p 1. This practice formed the basis of the Athenian liturgy system; see Finley SLCAA 91 and n. 20.

<sup>2</sup> IC 4.14 g-p 1.

<sup>3</sup> Guarducci *ibid.* Cf. *ad* IC 3.IV.7.22 f.

<sup>4</sup> *Titas*; occurs here, also *ibid.* 15 a-b; 165; and in the treaty between the Gortynians and the Larians IC. I. XVI 1; the plural *τίταις* in IC I.78 and 79.

<sup>5</sup> I follow Demargue-Van Effenterre BCH LXI (1937) p. 346 note 6, in their rejection of previous explanations. They equate *τίταις* with the Dorian *δάμοι* of the archaic period.

<sup>6</sup> By Guarducci, *ad loc.*

<sup>7</sup> IC 3.IV.7.

<sup>8</sup> Cf. Guarducci on the Itanian *λογιστάι*, *ibid.*; and Demargue-Van Effenterre on the *δάμοι*, *ibid.* 347.



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if the *titas* did not exact the fine from the *kosmos* after he had become liable, the *titas* himself had to pay double the amount,<sup>1</sup> on a familiar Cretan principle.

The next part of this same inscription (14 g-p 2)<sup>2</sup> contains information of great importance. We are told that an interval of three years must elapse before a *kosmos* who has come to the end of his tenure of office can again be *kosmos*. An interval of ten years is prescribed for a *gnomon*, and five for a *ksenios*. The provisions are not exceptional, for Crete or for Greece.<sup>3</sup> The early Drerian inscription<sup>4</sup> of approximately the same date, prescribes an interval of ten years, with severe penalties in case of infringement, before the same man can again be *kosmos*. These two inscriptions together provide evidence then of the early existence of a practice, proved by other inscriptions to have been common later, of eligibility to the same magistracies.<sup>5</sup> We may infer that a different interval of time between the successive tenures of office was prescribed by different cities. The need for such a provision is readily explained by the need to put an end for a time to the immunity against civil actions enjoyed by *kosmoi* during their term of office.<sup>6</sup> If this immunity were indefinitely prolonged, an official could not be called upon to give an account of his administrative duties and to pay such financial obligations as he might have incurred during his term of office.

But the length of time fixed at Dreros before an ex-magistrate became eligible for re-election has led to the suggestion that a political motive was involved. The aristocratic families, having freed themselves from the monarchy, would be reluctant to allow too much power to be acquired by one person who might have made an attempt to set up a tyranny.<sup>7</sup> In favour of this view it may be allowed that, if other indications of commercial activity were lacking, the early development of written law in Crete must, as elsewhere, have been connected with the needs of commerce—and tyrannies had their origin in commercial communities. But such general grounds do not encourage confidence in this inter-

<sup>1</sup> Cf. Guarducci *ad loc.*

<sup>2</sup> τρεῖς[δ]ε φερίον τὸν ἀφ'ὧν μὴ ἑορμαῖν, | δέκα μὲν γνόμονας, | πέντε [δὲ] κsenios | οὐκ.

<sup>3</sup> Cf. Guarducci *ad loc.*    <sup>4</sup> Demargne-Van Effenterre *ib.* 333-48.    <sup>5</sup> *ib.* 342 and n. 6.

<sup>6</sup> DHR I 430; Demargne-Van Effenterre *ib.* 342; Guarducci *ad loc.*

<sup>7</sup> Demargne-Van Effenterre (*ib.* 343) who cite Arist. *Pol.* 1272 b 3 ff., and see an analogy between the early history of Dreros and that of Athens and other Greek cities. Cf. Van Effenterre CMG 33 and Guarducci IC 4 p. 71.

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pretation, to which an alternative will be offered at a later stage of our discussion of the Cretan evidence.

The *gnomones*<sup>1</sup> are only mentioned here, in Crete. At Athens, they were inspectors of the sacred olives,<sup>2</sup> and are mentioned as witnesses of sales in a fourth-century inscription from Iasos.<sup>3</sup> Since, in the latter inscription, *mnemones* are more often mentioned as witnesses and recorders of sales, and seem to fulfil the functions of *gnomones*, it is likely that they were, at Gortyna also, the same as the *mnemones*, or secretaries, who are mentioned in a number of inscriptions.<sup>4</sup>

It is doubtful whether the verb *ροσμεῖν* in the context can apply both to *γνόμενος* and *κσ[ε]νός*, and therefore whether they can both with certainty be said to have belonged to the *kosmos* at this early period. The argument that the different officials might have needed a longer time to give an account of their stewardship, and therefore that there would be no inconsistency in considering *ροσμεῖν* to apply to all, is strained, in view of the long periods of time involved.<sup>5</sup> The explanation may be that the offices of *gnomon* and *ksenios* were onerous and less honoured or, particularly in the case of the *gnomon*, that a wider circle of candidates was eligible. However this may be, the mention of the *ksenios* appears to indicate that a chief magistrate was already concerned with foreigners or freedmen.<sup>6</sup>

Of the other cities of Central Crete, only Eltynia, Lyttos and Dreros provide direct evidence of the existence of *kosmoi*. Mention has been made of the Drerian evidence. Eltynia provides us with one inscription,<sup>7</sup> perhaps of this period (or the early fifth century), from which it can be inferred that here at an early date the *kosmoi* had separate duties.<sup>8</sup> No information, however, can be gathered from the single mention<sup>9</sup> in the Lyttian evidence of the period.

In West Crete, *kosmoi* are attested at Axos<sup>10</sup> and Eleutherna<sup>11</sup> in inscriptions either of this period or of the early fifth century. The sense of the first part of the second of the two inscriptions from Axos seems to be that, if a priest takes more than his due portion of what is being sacrificed, he is liable to a fine of a stater

<sup>1</sup> Kahrstedt (GS 356) and Busolt (GS 486) said that there were ten, wrongly, as Guarducci points out: IC 4 p. 71.

<sup>2</sup> Lys. 7.25.

<sup>3</sup> SIG 169.52.

<sup>4</sup> Guarducci *ibid.*

<sup>5</sup> Guarducci *ibid.*

<sup>6</sup> Cf. also IC 4.30 of the same period.

<sup>7</sup> IC, 1.X.2.

<sup>8</sup> Cf. Busolt, *ib.* 2.749.

<sup>9</sup> IC 1.XVIII.2.

<sup>10</sup> IC, 2.V.6 and 9.

<sup>11</sup> *Ibid.* XII.9.



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and a double proportion of the sacrificial flesh. But if some private arrangement is made, without compulsion, between the priest and the sacrificer, the priest can keep what he has been given. If the *kosmos*<sup>1</sup> fails to ensure that the prescribed penalty is carried out, he becomes liable to pay the fine himself. So that the principle which we have seen already at work in Gortyna equally applied at Axos.

Two *kosmoi* are mentioned in the inscription from Eleutherna, who were perhaps both eponymous, i.e. regarded as *protokosmoi*. That such a practice was not unique is proved by an inscription from Dreros.<sup>2</sup>

There is no early evidence relating to *kosmoi* in the cities of East Crete.

Mention of a Council does not appear in the inscriptions of this early period at Gortyna, in the other cities of Central Crete, or in East Crete. In West Crete, the city of Axos provides the only evidence of a Council, in the inscription cited above relating to the priest and the sacrificer. In the final sentence of the inscription, the Council of Axos is instructed to provide a sum of twelve staters for a festival.<sup>3</sup>

Apart from an indication<sup>4</sup> that the old term *agora* was used for its meetings, the Assembly plays no part in the early Gortynian evidence. In the other cities of Central Crete, as in West and East Crete, evidence for the Assembly is lacking.

### 2. THE SECOND PERIOD (FIFTH CENTURY)

The Gortynian evidence from this period shows that the *kosmoi* could not be involved in litigation during their term of office. But

<sup>1</sup> δ *κοσμίης* here seems to indicate an individual *kosmos* and not the whole body. Since a *κόσμος λογογράφος* is attested elsewhere, such jurisdiction would naturally be his concern if his office existed at Axos at this time. Cf. Guarducci *ad loc.*

<sup>2</sup> 3rd- and 4th c. B.C. BCH LXI (1937) 30.

<sup>3</sup> The sentence reads: κατὰ τὰ ἀπὸ τοῖς | Κυδαρτέσις διδοῦν τε(τοῖς) φέτει τὰς βόλὰς ἐς τὰ θέμιατα θυδόμενα στατήραν. The general purport is clear, though the exact meaning to be assigned to Κυδαρτέσις is doubtful. Maiuri (*Calend. Cret.* 124), comparing the Gortynian inscription IG 4.80, proposed *Bubartéσις* for Κυδαρτέσις. Guarducci rightly queried the need for this drastic change and retained Κυδαρτέσις. The form of the nominative plural could be either Κυδαρτέα (a festival), or Κυδαρτέσιοι (a people, forming part of the earlier population of Crete). The money is then to be provided for a festival called the *Kudanteia*, or for the *Kudanteioi* for a festival.

<sup>4</sup> IG 4.13 8-1.

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such temporary immunity from legal action was counter-balanced by deterrents against abuses. For example, it is ordained by law<sup>1</sup> that a runaway serf cannot be sold within a year if he had taken refuge in a temple; and further, that if the runaway serf belongs to a *kosmos*, he cannot be sold until his master has relinquished his office, and a year has gone after he took refuge in a temple. This provision is in keeping with what we are told in the Code<sup>2</sup> about the ban on litigation affecting the *kosmoi* generally during their term of office, and which has its analogies elsewhere, including Rome, where it applied to the consuls. This present provision can be explained as due to a desire to prevent the master from gaining too much advantage from the authority of his office, either in the sale of the serf or in any legal proceedings which might arise in the course of the transaction. A sale effected in violation of the regulation is automatically rendered null and void by a final rider to the provision.

Not only does the above-mentioned passage of the Code confirm that a *kosmos* must not be involved in legal proceedings whilst still holding office; it is also noteworthy that, should he be convicted in the proceedings which must take place once he has laid down his office, he becomes liable to the payment of a fine which may be substantial, because it is cumulative, not from the time he leaves office, but from the time the offence is committed.

The *ksenios kosmos* features as an important official concerned with foreigners and others, such as freedmen, outside the tribal community of the citizen body. It would be logical for freedmen to be placed under the protection of this official, because they lacked relatives by whom they could be emancipated. In the regulation of the Code concerning the renunciation of an adopted child,<sup>3</sup> ten staters must be deposited at the *dikasterion*, and given to the renounced person by the secretary of the *ksenios kosmos*. Unless we are to suppose that the *kosmoi* were directly involved in certain judicial proceedings as a regular course, this *dikasterion* cannot be considered as their official headquarters. It was probably rather a judgment-seat in the market-place, where the *dikastai* were regularly accustomed to carry out their duties.<sup>4</sup> The secretary of the *ksenios kosmos* would be involved because the renounced person might be a foreigner or at least outside the tribal

<sup>1</sup> IG 4.41.IV. Early 5th C.

<sup>2</sup> Col. I 51-3.

<sup>3</sup> XI 10-17.

<sup>4</sup> Guarducci *ad loc.* Cf. DHR I 387 f.



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community of the citizen body.<sup>1</sup> The connection of the secretary of the *kosmos* with the procedure is evidence of its importance, when we consider that the *kosmoi* only figure as a judicial authority directly on one occasion in the Code, namely, when the marriage of an heiress conflicts with the authorized legal procedure.<sup>2</sup> The secretary of the *kosmos* was no doubt responsible for the proper registration of the renunciation, and likewise, of the payment of monetary compensation.

The decree, mentioned earlier,<sup>3</sup> which granted the right of domicile in Latosion to freedmen (and perhaps aliens?), placed them, as we saw, under the protection of the *ksenios kosmos* against attempts to reduce them to servitude and against theft. Because violence done by robbers is an injury done to the state itself, a fine of one hundred staters has to be paid to the state.<sup>4</sup> It is likely that the *titai* had to ensure also that double the value of what was stolen had to be restored to the victim.<sup>5</sup> If the *titai* failed to carry out these obligations, the possibility is that each one of them had to pay double the value to the victim, and the money which was due to the state.

In the decree defining relations between the state of Gortyna and some craftsmen or hired workmen, where mention of the *ksenios kosmos* makes it appear likely that metics and freedmen are concerned,<sup>6</sup> if the workmen did not carry out their work, the *ksenios kosmos* had to exact a fine of ten staters, payable to the state, from each one of them, for each such offence. If they did not pay the simple fine, the *titai* were then to exact double the amount; and if they failed to do so, they themselves became liable to pay the fine to the state.

Much has been written about the important inscription<sup>7</sup> which has been defined by Guarducci as not so much a treaty between the Gortynians and Rhittennians, as a Gortynian decree concerning the Rhittennians who, although they had their own law and courts, were nevertheless subject to the power of Gortyna. In other words, they formed a perioecic community of the kind to

<sup>1</sup> We must bear in mind the rule: ἀπαραιεῖται ἕκαστος ἀπὸ τοῦ καὶ τῶν ἀλλῶν (Code Col. X 33).

<sup>2</sup> Col. VIII 53-IX 1.

<sup>3</sup> IC 478. (See p. 40.) 480-50 B.C.

<sup>4</sup> Guarducci compares the Athenian δόκη βουλῶν and quotes Dem. 528: οἱ γὰρ πᾶσι τοῖς βουζόμενος πρῶτον κοινὰ ἀδικήματα καὶ κατὰ τὴν ἑξῆς τοῦ πράγματος ὅντων ἤγειρο ὁ νομοθέτης.

<sup>5</sup> So Guarducci infers, *ad loc.*

<sup>6</sup> See p. 41 (480-50 B.C.).

<sup>7</sup> Published by Halbherr in AJA I (1897) 204 n. 23; SGDI 4985; DHR II 319 no. 31; Schwyzler 177; Guarducci IC 480, with further refs.

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which some discussion has already been devoted.<sup>1</sup> In the same way, the Kaudians (see p. 138) are the subject of a later decree, although they are described as free and, like the Rhittenians here, *αὐτόνομοι καὶ αὐτόδικοι*. The inference is that, in the first part of the fifth century, the Gortynians had already gained control of the neighbouring city of Rhittenia,<sup>2</sup> situated on the northern line of communication to the sea.

The Gortynians appear to have been responsible for an important triennial sacrifice at the celebrated cave of Zeus on Mount Ida. The decree begins by laying upon the Rhittenians the obligation to send to Ida, on these occasions, three hundred and fifty staters' worth of victims, or victims and money.

The purport of what follows seems to be that a Gortynian could possess, buy and sell houses and trees at Rhittenia, and a Rhittenian at Gortyna.<sup>3</sup> It is the next section, however, which makes it clear that this is not a treaty between equals (ll. 4-8). According to Guarducci's version of the text,<sup>4</sup> the meaning is that the Gortynian *kosmoi*, including the president, who came to Rhittenia, were to exercise jurisdiction, along with the Rhittenian *kosmoi*, over those who did not obey the ephors, and were to exact a fine of a drachma from them to be used by them in conjunction with the Rhittenian *kosmoi* and Assembly. If the punishment exceeded the prescribed fine or was used differently, the matter was to be decided by a *kseuria dika* (i.e. of the Gortynians). The last regulation clearly proves that the Rhittenian assumed the status of a foreigner at Gortyna; there is no question of *isopoliteia*.

This section opens as follows: τὸν δὲ σταγρ|ἀγέτω καὶ τὸν κοσμίοντα ὅς κ' ἄγῃ[ι] \*P[ι]ττῆνάδε κοσμεῖν πεδὰ τὸ \*Ριττῆνιῶ | κόσμῳ τὸν μὲ πειθόμενον τὸ \*πορῆ[υ] δ, δ]αμῶμεν δὲ διακρῖναι καὶ κατακρῆναι πεδ' ἅ τε τὸ σταγρὸ καὶ πεδὰ τὸν \*Ριττῆνιῶν (ll. 4-7). When the term *stateres* and its related term *stateretas* were discussed earlier,<sup>5</sup> the

<sup>1</sup> Pp. 37-9.

<sup>2</sup> Rhizenia (\*Ριζῆνια) is perhaps the early form in IC 1, XXVIII.2. Here we find \*Ριττῆνιοι, \*Ριττῆνιάδε. Cf. Guarducci *ad loc.*; Bechtel 2.694; Kirsten in RE 1.7. Rhizenia.

<sup>3</sup> For the meaning and legal implications see the discussion in DHR II 322, and Guarducci *ad loc.*, who comments: 'Notandum denique est illas domus arboresque ad finum Gortyniorum et Rhitteniorum commune pertinere haud recte Blass arbitratum esse.'

<sup>4</sup> Cf. DHR II *ad loc.*

<sup>5</sup> Pp. 28-9. Cf. DHR I 414; De Sanctis AJA 5 (1901) 319; Kahrstedt GS I 351; Busch-Swoboda GS I 132; Kirsten DIK 132; Guarducci H 9 (1935) 443 and *ad loc.*



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view was maintained that *startos* seems clearly to signify the clan, a view which explains the inscriptional evidence here and elsewhere,<sup>1</sup> the Hesychios gloss *σταγροί: αἱ τάξεις τοῦ πληθους*, and Aristotle's statement that the *kosmoi* were taken 'from certain clans'.<sup>2</sup> It is now necessary to examine the terms in rather more detail.

We must guard against too strict a military interpretation of *startos* and *startagetas* on the ground of etymology, no more universally valid for these terms than for *kosmos*; even though, as was pointed out, etymological and other supporting evidence do point to a stage when tribal institutions were adapted to warfare. But the institutions have an earlier phase, just as they have a later development. De Sanctis<sup>3</sup> pointed out the usual derivation of *stratos* from root *stor* or *star*, 'to stretch', and its connection with *storennumi*, citing Semenoff, who compared it with *stereos* and thought that the meaning was that of *aliquid firmum, compactum, bene iunctum*—apt descriptions of the solidarity of the primitive clan. Therefore a *startagetas* was only a *strategos* when the clan went to war, and so became an army: otherwise, his title suggests that he was the clan chief, in peace as in war.

Just as, in the passage of the Code (Col. V 4-6: δ|| δκ' δ ΑΙΘ[α]λεὺς (σ)ταγρὸς ἐκδο[μ]ον οἱ οὖν Κό[λ]λοι), the *startos* fulfils the functions of the *kosmoi*, so here the *startos* and *kosmoi* are closely connected, the *κομῖται* is mentioned after the *startagetas*, and the verb *κομῆν* applies both to *σταγρᾶς* and *κομῖταις*. Hence it can be inferred that the *startagetas* was himself a *kosmos*. In the phrase *πρὸς τὸ σταγρὸ καὶ πρὸς τὸν Πιττῆριον*, the *startos* is opposed to the Rhittenians (i.e. the Assembly), and was therefore presumably composed of individuals who did not belong to the Assembly. The inference is that the *startos* was the body of *kosmoi* who exercised power, along with the Rhittenian Assembly. The *startos* would thus be presided over by the *startagetas*, who was normally in later times called the *protokosmos*, the president of the *kosmoi*. The natural conclusion is therefore that this Gortynian *startagetas* presided over both the Gortynian and the Rhittenian *kosmoi*, a conclusion which is in keeping with the subordinate position of the one city to the other.

It is not possible then to accept the view of De Sanctis,<sup>4</sup> that

<sup>1</sup> Code Col. V 5; IC I.XVIII.11.1; IC 4.142.2(?)

<sup>2</sup> Pol. 1272 a.

<sup>3</sup> B. 323. Cf. Boisacq 126.

<sup>4</sup> B. 322.

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the *startos* was nothing more than the whole body of *kosmoi*, without further qualification. The *startos* was a subdivision of the tribe, as seems intended by the Hesychios gloss, and as has been recognized by some modern scholars.<sup>1</sup> On my view, this subdivision was the clan; and the *startagetes* was the clan chief. As aristocracy developed, so certain clans became ruling clans; and the term *startos* would now have assumed a new political significance, referring to a body of chief magistrates, consisting of the clan chief and his colleagues, who were the elders of the clan. The change is most decisively apparent when the *startos* comes to be called simply the *kosmos*, and the *startagetes* the *protokosmos*. As Aristotle said, the *kosmoi* were chosen from certain clans. Such clans, or privileged kinship groups, as they may be described in the new conditions, would tend to become more and more restricted; and the number of *kosmoi* might vary according to the number of wealthy and influential 'elders' available within the grouping from time to time. The inscriptional evidence bears out both of these conclusions.

If the interpretation of the above quoted passage adopted here be correct, the verb *kosmen* is not to be taken as equivalent to *dikazein*, but in a more general sense, implicit in its etymology, of 'putting to rights', 'reducing to order'. So that the duties of the *kosmoi* here would be not so much judicial as broadly and decisively administrative in all spheres, including the following-up of judicial decisions.<sup>2</sup>

The reading *πορίμ[α]* (scil. *ἐφορίμ[ον]*), adopted by Guarducci,<sup>3</sup> instead of *πολέμ[α]*, which scholars have followed Halbherr in preferring, raises an important question. In stressing the importance of this mention of an institution common to Sparta and other Dorian states, Guarducci compared the *epottas* of another Gortynian inscription of the same period,<sup>4</sup> implying the existence of a Gortynian magistrate who exercised the functions of an *ephoros*. The term *eporimon* here would suggest a whole body of ephors.

<sup>1</sup> DHR I 415.

<sup>2</sup> Cf. Guarducci *ad loc.*

<sup>3</sup> Discussed IC 4 pp. 184 and 186. Guarducci, citing Brause (*Leutlehrs Kret. Dial.* 164), points out that the existence of ephors at Rhittenia in early times can be inferred from one inscription (IC 1.XXVIII.1) where we should understand the name of a magistrate (*ἐφορος* = *ἐφορος*) rather than the name of a man (*Ἐφορος*).

<sup>4</sup> IC 4.84.4. The reading *ὁ δ' ἐπόρτας* is that of Brause who considered that *ἐπόρτας* = *ἐπόρτας*. Cf. Comparetti, *Blass*: *ὁ δὲ πορτάς*. Guarducci cites Pl. *Lg.* 951 d.—*τὸν σύλλογον—τὸν τῶν περὶ νόμους ἐπαπαιδευόντων* and the Boetian *κατόπιος*.



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The fine which can be imposed by the officials is very small, and De Sanctis<sup>1</sup> compared the customary Athenian phrase: *ἐπιβολὰς ἐπιβάλλειν*, 'that is, to impose small fines for contraventions of the rules or usages relative to behaviour in assemblies, sacred places or the like'. If the comparison is valid, it gives us an idea of some of the duties of the Rhittanian ephors. It is of some interest that, despite the small fines involved, the visiting officials were obliged to dispose of them in conjunction with the Rhittanian *kosmoi* and Assembly. If they trespassed against the provision by imposing a bigger fine, or used the money themselves, the matter would have to be taken up as a *kseneia dika*<sup>2</sup> at Gortyna, presumably before the *ksenios kosmos*. The visitors were then to use their authority to back up the local officials, but some care was taken to ensure that this authority was not abused. The regulation demonstrates the way in which the existing state apparatus of the subject city was used by Gortyna to exercise its control, just as it legally defines the status of the Rhittanians *vis-à-vis* the Gortynians. Redress against an abuse of the Gortynian power was to be sought not in their own city, but at Gortyna, according to the process of Gortynian law.

In this same inscription Gortynians were further forbidden to take securities in the territory of Rhittania,<sup>3</sup> and if proved to have done so, had to pay twice the value of the security. The fine was to be exacted by the Rhittanian *kosmoi* and, failing action by this body, the elders exacted from the *kosmoi* with impunity. This local autonomy in matters of usurious practices by individuals of Gortyna is probably typical of aristocratic action against speculation which might threaten traditional landed privileges and customs;<sup>4</sup> and it is in marked contrast with the previous sanctions involving *kseneia dika*.

As for the other cities of Central Crete, in Arcadia there were only two *kosmoi* at one time in the fifth century.<sup>5</sup> Other inscriptions make it clear that this number was raised to three in succeeding periods. The small number of *kosmoi*, if we also bear in mind other indications of its backwardness, is an indication that the administrative functions of the supreme magistrates of Arcadia

<sup>1</sup> *ib.* 325.

<sup>2</sup> Cf. *φαρτία δόξα* in IC 4.13 8-1; 64.

<sup>3</sup> It would appear that a law concerning securities was written up in a building belonging to the ephors: Guarducci *ad loc.*

<sup>4</sup> Cf. however the position in the Hellenistic period, discussed in Ch. XVIII.

<sup>5</sup> IC 1.V.4. Cf. p. 147 n. 1.

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were not considerable—as indeed we might expect of such a community.

In the Argive draft of a treaty between Knossos and Tylisos,<sup>1</sup> arranged under the auspices of Argos, the *kosmoi* of Knossos were liable to a fine of ten staters imposed by the Council, if they did not carry out official injunctions regarding hospitality to the Tylisians; and vice versa.

In West and East Crete evidence is lacking for the *kosmoi* in this period.

Although there is no inscriptional mention of a Council until the first century B.C. at Gortyna, mention is made of Elders from the fifth century B.C. until the first century A.D. (The Cretan forms *πρεῖγος*, *πρεγγευτάς* or *πρεινευτάς*, *πρεῖγων*, *πρεῖγιστος* (later *πρήγιστος*) are equivalent to *πρεσβύς*, *πρεσβευτής*, *πρεσβύτερος*, *πρεσβότατος*.<sup>2</sup> Side by side with their simple meanings, the terms were respectfully used from early times, as the Homeric evidence shows, of the tribal elders, dignitaries and chiefs.)

In the inscription discussed above, relating to Rhittenia, the Elders are most likely not Gortynians but Rhittenians,<sup>3</sup> since the Gortynian *titai* exacted fines, at least from their own *kosmoi*, and because it would be more appropriate for Rhittenians to exact fines from their *kosmoi*. Elsewhere, for example at Dreros, Knossos and Tylisos, it was customary for the Council to exact fines from the *kosmoi*. On this analogy, and because the Rhittenian elders are officially enjoined to exact fines, it is probable that they constituted a conventional Council of Elders at Rhittenia in this period, as we should normally expect.

As for Gortyna itself, it may well be that the old tribal term *preigistos* was used to signify a member of the Council, a body which can be assumed to have existed from an early period in Gortyna, as elsewhere in Crete.

In West and East Crete there is no evidence for the Council.

Evidence for the Assembly is lacking, except at Gortyna and Rhittenia. The Gortynian terminology shows a simple and interesting development. The word *agora* is used to mean an Assembly of the citizens in two inscriptions of the period,<sup>4</sup> and was

<sup>1</sup> B. VIII. 4 b.

<sup>2</sup> Buck GD 57 and 68-9; Boissac s.v. *πρεσβύς*.

<sup>3</sup> Guarducci *ad loc.*; cf. RF 8 (1930) 480. In the case of the inscription IC 4.145 (mid 5th-early 4th C.) the evidence is not sufficient to enable us to decide if *πρεῖγων* signifies an official state magistrate, as a variant for *πρεῖγιστος*.

<sup>4</sup> IC 4.72 (Cols. X and XI); 80.



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probably so used in earlier times, as can be inferred on general grounds, and on the probable evidence of an archaic inscription.<sup>1</sup> In the Code, there is the same blending of the two meanings, 'place of assembly' (i.e. 'the market-place'), and 'muster', which is so common in the frequent Homeric use of the word. Perhaps by the fourth century,<sup>2</sup> and certainly by the third, the word *polis* has replaced *agora* in the inscriptional evidence. Its meaning of the 'assembly', or 'community of citizens', at Gortyna as elsewhere, is quite clear when it is used in combination with, and yet as distinct from, either the *kosmoi* or the *boule*. The word *demos* is, oddly enough, confined to the Imperial epoch.

In the Code, the Assembly is mentioned in connection with the practice of adoption, which has already been discussed. It is only necessary to note the continuing power of ratification of the citizens, convened in a formal Assembly, no matter how modified, regarding adoption and repudiation, revealed by these passages of the Code.

As for the second inscription, we have seen that, despite the small fines involved, the visiting officials from Gortyna are obliged to dispose of them in conjunction with the Rhittanian *kosmoi* and Assembly. That the Assembly was an important element in the state apparatus of the subject city, used by Gortyna to exercise its control, is clear from the phrase *πρὸς τε τὸ στατήρ καὶ πρὸς τῶν Πιττηνίων*, where *οἱ Πιττηνιοὶ* means the Assembly. Some idea of its powers is given in the concluding part of the inscription where we find *τὸ κοινὸν οἱ Πιττηνιοὶ*<sup>3</sup> referred to. The expression *to koinon* is not found in the Gortynian inscriptions which apply to Gortyna itself, but is common elsewhere. The general sense of this concluding passage seems to be that, if the Assembly, the citizen body, of Rhittania, shall have any new difference with the Gortynians, the herald shall invite the accused Gortynians, or others representing them, to present themselves within ten days at Rhittania.<sup>4</sup>

### 3. THE THIRD PERIOD (FOURTH CENTURY)

Apart from the possibility that *polis* had replaced *agora* as a term for the Assembly at Gortyna, evidence for *kosmoi*, Council and Assembly is lacking from any part of Crete.

<sup>1</sup> *Ib.* 13 g-i.

<sup>2</sup> *Ib.* 236. Late 4th or early 3rd C.

<sup>3</sup> Cf. *ὁ πόλις οἱ Γ'ορνύνιοι* in IC 4-233 and 236.

<sup>4</sup> Cf. Guarducci *ad loc.*; Halbherr in *AJA* I (1897) 211.

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### 4. THE FOURTH PERIOD (THIRD CENTURY)

After the almost non-existent evidence of the preceding century, the evidence of this period is, in all areas, relatively abundant and diverse. An example of the developing complexity of the evidence is provided by the agreements made with the Milesians by certain cities in the middle of the century,<sup>1</sup> which show some important differences in constitutional procedure. The judgment of certain problems is entrusted at Knossos to the *kosmoi* and the Council, at Gortyna only to the *kosmoi*, at Phaistos to the civil court. If we assume that the Council at Knossos had developed a relatively democratic character, it can be argued that the restriction of these functions to the *kosmoi* at Gortyna is an indication of more conservative customs.<sup>2</sup> But it can be more cogently maintained, for reasons which will be discussed later, that the Council which operated with the Knossian *kosmoi* was a survival of the old aristocratic Council which, in earlier times, had the function of administering judicial affairs; whilst at Phaistos, the magistrates confined themselves to executive matters.<sup>3</sup>

A document of the same time<sup>4</sup> perhaps shows that the Gortynian *kosmoi* exercised political authority over Phaistos, an arrangement which can be compared with the earlier analogy of the Rhitenians, and the later analogy of the Kaudians. The document in question has been described as one of the most mysterious of all Cretan inscriptions.<sup>5</sup> From the context it can be gathered with some degree of certainty that Gortyna and Phaistos exercised some control over the Kransopeioi; that, if the Kransopeioi violated their treaty or treaties regulating their relations with Gortyna and Phaistos, they were to be fined two thousand staters; and that suit

<sup>1</sup> IC. I.VIII.6; XXIII.1; *ib.* 4.161. The inscription concerned was found at Miletos and contains an agreement between Miletos and three different groups of Cretan states about the liberation of citizens captured by Cretan and Milesian pirates. The agreement with Knossos is also binding on other allied states, the Tylisians, Rhaukians, Chersonesians, Milatians, Eltynians, Herakleotes, Priansians, Apolloniates, Petraians, Itanians, Prasiains, Istronians, Olountians, Drerians, Latians, Eleuthernaians, Axians, Kydoniates, Phalasarnians. Since Gortyna was allied with the Lyttians, Arkades, Ariaians and Hyrtaians, to form the second group, and the third group was formed by Phaistos, allied with the Matalians and Polyrrhenians, it seems that Knossos was the most powerful state in Crete at the time (260-40 B.C.). Cf. Van der Mijnsbrugge CK 59-60.

<sup>2</sup> Van Effenterre CMG 171. <sup>3</sup> Muttelee ZVK 22. <sup>4</sup> IC 4.165.

<sup>5</sup> Larsen PC 16. For bibliography see Guarducci *ad loc.* Cf. Van Effenterre CMG 153 and n. 4.



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could be brought in either city. So that these Kransopeioi would have been a perioecic community with a local government, their relations to their masters being defined by treaty.<sup>1</sup>

But to explain the joint control of Gortyna and Phaistos over the Kransopeioi is more difficult. On the one hand, the document is issued under the authority of one set of *kosmoi*, presumably the Gortynian, as if it were a Gortynian decree. On the other hand, Gortyna and Phaistos are later referred to as having their own courts. Halbherr's view was that the document was a joint decree of the two cities, which were merged into one state at the time. Blass thought it was a treaty, and he has been supported by Larsen, who argued that, since the clause which allowed suits to be brought on the same terms either at Gortyna or at Phaistos cannot be reconciled with the merger of the two cities into one (at least for a sufficiently long period to make it necessary to recopy a decree issued at the time),<sup>2</sup> it is easier to believe that Gortyna and Phaistos acquired a joint control over the Kransopeioi. So that suits were brought at Gortyna for delinquency on the part of the Kransopeioi in their obligations towards Gortyna, and at Phaistos for delinquency towards Phaistos. The *titas* to whom the fine was to be paid must be an official of the city concerned and the city which is mentioned as having to keep half of the fine must be the city in which the suit was brought.

Guarducci, however, has more correctly inferred that Phaistos was more or less subject to Gortyna, since only one set of *kosmoi* is mentioned, undoubtedly that of Gortyna.<sup>3</sup> For the earlier analogy of the Rhittinians, and the later analogy of the Kaudians, show that the Phaistians could have been under the sway of Gortyna whilst having their own courts, i.e. could have been *autodikoi*.

Two further points are worthy of notice here: the large amount of the fine; and the fact that only one *titas* is mentioned as being concerned.

One inscription<sup>4</sup> of the period gives some possible indication

<sup>1</sup> Larsen *ibid.* Halbherr also considered them to be *perioikoi*: AJA I (1897) 200. Cf. Guarducci RF 14 (1936) 358 and *ad loc.*

<sup>2</sup> Both Halbherr and Blass (SGDI 5019) considered the document might be a copy of an earlier *boustrophedon* inscription.

<sup>3</sup> There are other indications of this subjection: Guarducci *ad loc.*; cf. Van Effenterre *l.c.*

<sup>4</sup> IC 4. (169). Guarducci *ad loc.*

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that the *kosmoi* supervised the election of judges and also advised them about the process of law.

A fragment of a treaty<sup>1</sup> between the Gortynians and Arcadians contains a list of *kosmoi*, and names of gods and goddesses invoked. It is, however, not clear how many Gortynian *kosmoi* are listed because of uncertainty about the actual length of the lines. There are fifteen lines altogether, and if we suppose that one *kosmos* was mentioned in each line, then six *kosmoi* are enumerated from the second to the seventh line, besides two others in the ninth and following lines, possibly mentioned as officiating for the second time.<sup>2</sup> But if it can be supposed that each line contained two names, ten or eleven *kosmoi* may have been mentioned up to the seventh line. (We know from one inscription that there could be as many as eleven Gortynian *kosmoi*.)<sup>3</sup> In that case, the *kosmoi* in the ninth and following lines are not Gortynian but Arcadian, a possibility which may be supported by the similarity between names mentioned here and elsewhere.<sup>4</sup>

A decree of the Gortynians,<sup>5</sup> only part of which survives, concerns Amyklaion, and indicates that it was a perioecic community subject to Gortyna.<sup>6</sup> The Gortynian *kosmoi* are apparently referred to, and *ephistamenoi*<sup>7</sup> is used of them in the exercise of their office.

The *kosmoi* are often mentioned in the decrees of other cities of Central Crete, especially in the decrees of 201 B.C. replying to the Teian embassy which visited the cities of the island.<sup>8</sup>

One of the most important inscriptions of the period, belonging to the late third or early second century, is that containing the oath of the Drerian youth.<sup>9</sup> Taken in conjunction with similar evidence elsewhere, which will be examined later, this document reveals a trend among the authorities of various cities to strengthen their hold on the ephebic organization, with its ancient customs.

<sup>1</sup> *Ib.* 171.      <sup>2</sup> If either *desire[por]* (Halbherr) or *desire[por]* (Blass) are accepted.

<sup>3</sup> *Ib.* 259. C. and C. B.C.      <sup>4</sup> Guarducci *ad loc.*

<sup>5</sup> IC 4.172.      <sup>6</sup> Larsen PC 16; cf. Guarducci *ad loc.*

<sup>7</sup> Cf. IC 4.181.16 and *ib.* 3.III.4.66.

<sup>8</sup> IC 1.III.1 (Apollonia); *ib.* VI.1 (Biancos); *ib.* XIV.1 (Istros); *ib.* VIII.8 (Knossos); *ib.* XVI.2 and 15 (Lato); *ib.* XXVII.1 (Rhaukos).

<sup>9</sup> *Ib.* IX.1. Editors following Blass (SGDI 4952) supposed that it was copied from an earlier version. This has been denied on the basis of later evidence by Van Effenterre in an article containing a valuable reconstruction of the possible contemporary occasion of the oath (BCH LXI.1937.327-32). The problem is considered later (pp. 182-4).



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The oath which has to be taken by the youth promises loyalty to Dreros and the allied Knossos. A majority of the *kosmoi* are to be immediately involved to prevent a possible conspiracy being neglected, either by oversight or perhaps through the collusion of a section of the *kosmoi*.

The importance of the oath and its continuity is emphasized by the penalty laid down for the *kosmoi*, in case of neglect, after they have laid down their office, the initiative in such action being made binding on those who take the oath. Insolvency is not to be accepted as an excuse for non-payment of fines subsequently exacted; and such fines as are forthcoming are to be shared among the members of the *hetairéiai* in the city or on garrison duty.

While the *kosmoi* are made responsible for the administration of the ceremony of the oath, they are subject to the supervision of the Council and the vigilance of the newly created citizens. If the members of the Council do not do their duty, they have to pay double the fine, and the collectors of the public funds are made responsible for exacting it and sharing it among the members of the *hetairéiai*.

One detail mentioned in this ceremony before the *kosmoi* is of considerable interest and importance. The members of the *agela* are described as *panazotoi* (A. 11 f.). The word *azotoi* is used later (D. 140 f.). (The Hesychios gloss is ἀζωστος ἀνοπλος, ἄσταλος.) *Panazotoi* and *azotoi* seem to have the same purport<sup>1</sup> as the verb *egduasthai*<sup>2</sup> in the phrase τοὺς τόξα ἐ|γδυομένους in lines 99–100 here, and in [τὰν ἀγέ|]αν τὰν τόξα ἐσδυομένων of an inscription from Malla.<sup>3</sup> It seems likely that at this ceremony, the members of the *agela*, having now reached the final stage of their initiation into manhood, laid aside their boyhood garments before assuming the warrior's costumes which each had received as a gift after his period of seclusion.<sup>4</sup>

This possibility receives confirmation from the existence at Phaistos of a festival known as the *Ekdusia*, during which the youth put aside his boy's clothes. The *Ekdusia* was connected with the local cult of Leto Phytia, and the myth of Leukippos, who changed from a girl to a boy. According to the tradition related by the

<sup>1</sup> Cf. Guarducci *ad loc.*

<sup>2</sup> ἐγδυέσθαι = ἐσδυέσθαι = ἐνδύεσθαι. Cf. Buck GD 77.

<sup>3</sup> IC I. XIX. 1. 17–18.

<sup>4</sup> Cf. Guarducci *ad loc.*; Schwyzler RM 77 (1928) 242.

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mythographer,<sup>1</sup> Galatea, daughter of Eurytos and wife of Lampros, gave birth to a daughter. She persuaded Leto to allow the girl to change her sex when she was grown up.<sup>2</sup> To commemorate the change, the Phaistians celebrated their festival: ταύτης ἔτι μέμνηται τῆς μεταβολῆς Φαίστιοι καὶ θέουσι Φυτῇ Λητοῖ, ἥτις ἔφρασε μῦθεα τῇ κόρῃ, καὶ τὴν ἑορτὴν Ἐκδόσια καλοῦσιν, ἐπεὶ τὸν πέπλον ἡ παῖς ἐξέδυν, νόμιμον δ' ἐστὶν ἐν τοῖς γάμοις πρότερον παρακλίνεσθαι παρὰ τὸ ἀγαλμα τοῦ Λευκίππου.

The festival and the myth at once combine fertility ritual, initiation and marriage; and the tradition, as reported by the mythographer, perhaps suggests a change from a female to a male cult. Phytia, like Physkoa<sup>3</sup> at Olympia, and perhaps Orthia at Sparta, is 'the one who promotes growth', including the growth of fertility in the young.<sup>4</sup> When this growth has been achieved, the boy dies as a boy and is born again as a man, a crucial change marked by the casting off of the costume appropriate to boyhood, and the assumption of the costume appropriate to a new status. For the correlation of *egduēsthai* with *panazestoi* at Phaistos is supported by analogous practices elsewhere. For example, the Athenian *epheboi* wore a distinctive cloak which was originally black or dun in colour, and later white. Though the rough cloaks of the Spartan and Cretan boys could be explained as appropriate to their strenuous life, the distinctive colouring of the Athenian cloak suggests that there is a ritual origin for all three. Except at Argos, where it was white, the traditional mourning colour in all parts of Greece was black or dun. Hence the possibility that custom betrays a vestige of primitive belief in the death of the child at initiation.<sup>5</sup>

In view of what Strabo says about the Cretan youths being married all at the same time on leaving the *agela*, it is significant that the role of the statue of Leukippos in the Phaistian marriage ceremony should be mentioned along with the festival of the *Ekdusia*. It seems that the Phaistian youth were initiated into manhood, citizenship, and also marriage, at the same period of life. Because of what was said earlier about *skotioi* (p. 14), it is also of interest that Aphrodite was called *Skotia* in Phaistos.<sup>6</sup>

<sup>1</sup> Ant. Lib. *Met.* 17. Cf. Jeanmaire CC 442; Guarducci IC 1 p. 270.

<sup>2</sup> Cf. Ov. *Met.* 9.666 (Galatea = Telethusa; Lampros = Ligdus; Leukippos = Iphis).

<sup>3</sup> Paus. 5.16.6.

<sup>4</sup> Thompson AA 107.

<sup>5</sup> Cf. *Λατὴ κοινοτροφός*: Theoc. 18.50.

<sup>6</sup> EM s.v. *Κεθήρεα*.



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perhaps because she was regarded as the patron goddess of those about to undergo initiation into manhood and marriage.<sup>1</sup>

Initiation is usually accompanied by an ordeal, and a ritual of ordeal and fertility<sup>2</sup> may underline the obscure and archaic passage which concludes the Drierian oath: νικατήρ | τᾶς ἀγέλας || ----- | καὶ ἐλάαν ἐ|καστον φντεῖ|ειν καὶ τεθραμ|μέναν ἀποδεί|| ξαι ὅς δέ κα μὴ | φ|υτευσεῖ, ἀν|ο|τσειεῖ στα|τῆρας πεν|τήκοντα. vac. (lines 153 ff.). ('The victor of the *agela* . . . and each shall plant an olive-tree and show it when it has been grown. Whoever does not plant an olive, shall pay fifty staters.') The name of the victor is missing, nor do we know in what way he was victorious. But we can infer that he was the victor in an ordeal of initiation, an ordeal that took the form of a race, the winner and his fellow competitors being under an obligation to cultivate the olive.

The inference is plausible on general grounds, and a number of further considerations help to support it. First of all there is the significant form of the Hesychios gloss: νικατήρες· οἱ ἀκραιψίατοι ἐν ταῖς τάξεσιν. Secondly, the fact that the victor at Olympia was crowned with olive; and that, according to local tradition, when Rhea gave birth to Zeus, she entrusted the child to the Kouretes, who came from Crete to Olympia and amused themselves by running a race, the winner being crowned with wild olive, which was so abundant that they slept on its leaves while they were still green.<sup>3</sup> Thirdly, that the calendar at Priansos included a month

<sup>1</sup> Cf. Höfer in *Rocher's Lex.* (s.v. *Skotis*, 2). Cf. Kock in *RE* (s.v. *Skotis*, 2). If Guarducci's restoration of the first line is correct, as seems likely, the epitaph from Polyrhénia (IG 2.XXIII.20) shows how the idea of marriage was connected with graduation from the *agela*:

Κλῆ|τόν ἐξ ἀγέλας [σε] πολέσσονον εἰς Ἀχέροντα,  
 Ἀδρασσε, στυγερὰ μοῖρα καταγάγετο.  
 μήτηρ δ' οὐχ ὀμνέων ἀπὸ στομάτων Πολυμήδα  
 ἔκε πρὸ νεμεβίων (Ἰ)σταμένα θαλάμῳ,  
 δ. ἀλλὰ τοὶ ἀντί γάμον γαστέρι μέλος ἔαζε θρήνων,  
 στέγον ἀμετρήτῳ πένθει τειρομένα·  
 μαρμαῖρον ἐκ Παλῆα[[i]]ς δὲ τελευταμένα τόδε σῶμα  
 πατρὶ σὺν Ἀρχένοι σὺν δέμας ἐκτίσσει.

<sup>2</sup> Cf. the imprecation in the oath of the Athenian *epheboi* (Tod GHI 2.303 no. 204).

<sup>3</sup> Paus. 8.2.2; Thompson, *AA* 115, writes: 'The leaves, we observe, had to be still green. In other words, the practice had a ritual significance, and the reader will already have recalled the practice of the Spartan boys, who, after *their* day's racing, used to sleep on rushes from the Eurotai. That too had a ritual significance, because the use of a knife was prohibited. And here it may be added that, after being escorted to the *prytaneion* or town hall, the Olympian victor was pelted with leaves. This is

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*Dromeios*, and that the possibility of a Cretan festival *Dromeia*, analogous to the *Ekdusia*, has been suggested;<sup>1</sup> and that the term *staphyladromos* was applied in Sparta to a runner at the *Karneia*, which fell at the same time as the *Hyakinthia* and also the Olympic festival.<sup>2</sup> Finally, that the verb *egdramein* was used at Lato of those who left the *agela*.<sup>3</sup>

It seems likely then that the Cretan terms *dromeus* and *apodromos* are to be referred ultimately to the cult practices of an agricultural community which had linked the death and the re-birth of initiation with the fertility of the crops, with marriage, and later with citizenship and even with its calendar; and furthermore, that these archaic practices were fostered and strictly controlled by the leading magistrates in order to ensure the legality of the new citizens in circumstances which, as we shall see, demanded that such control be intensified.

A treaty between Malla and Lyttos<sup>4</sup> shows the responsibility of the *kosmoi* of Malla for the annual ritual graduation of the youth from the *agela*. The *kosmoi* were subject to a large fine if they did not carry out their prescribed duties.

In this period, the *titas* at Lato<sup>5</sup> plays the same part in relation to the *kosmoi* as was the case already at Gortyna at an earlier period.

As for West Crete, there is some indication that here too, at Axos, the *kosmoi* were associated with the ceremony of leaving the *agela*.<sup>6</sup>

At Eleutherna, the terms of a treaty of alliance with King Antigonos Doson of Macedon (perhaps to be assigned to 227-4

usually interpreted as a fertility rite, and so in a sense it was, but that does not go to the heart of the matter. At Sparta, we are told, the custom was to place no offerings in the tomb of the dead, only the body itself wrapped in a purple soldier's cloak and laid on leaves of olive. The magical virtue of these leaves, for living and dead alike, was newness of life.<sup>7</sup> Cf. also the phrase *πέποιθας ἐκτός τῶν ἑλάνων*, deriving from the fact that the olives stood at the end of the Athenian race-course (*Ar. Ra.* 995). Old men carried young olive shoots at the Panathenaia (*Ar. V.* 544).

<sup>1</sup> Guarducci *IC* I p. 286, citing Brause in *H* 49 (1914) 106.

<sup>2</sup> *Hdt.* 7.206; 8.72; 9.7, 11; *Th.* 5.75.

<sup>3</sup> *IC* 1.XVI.5.21.

<sup>4</sup> *Ib.* XIX.1.

<sup>5</sup> *Ib.* XVI.1.

<sup>6</sup> *IC* 2.V.24. The inscription is a fragment of a law, and although the content is not clear, the occurrence of the word *ἐγδύειν* in two places (lines 7 and 9) may indicate that it concerned the young men leaving the *agela*. If so, it is not surprising that we should find mention also of *ὁ νόσμος* (although we cannot say for certain whether one *kosmos* or all are meant), in view of the close connection we find elsewhere in the Hellenistic period between the *kosmos* and the ceremony of leaving the *agela*.



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B.C.),<sup>1</sup> make the *kosmoi* responsible for the despatch of assistance to Antigonos within a period of twenty days, when this is decided upon. When the envoys from Macedon arrive, the *kosmoi* must convene the Assembly, normally within ten<sup>2</sup> days. Once the Assembly is convened, they must furthermore ensure that priority is given to the envoys and their business. The *kosmoi* are subject to heavy penalties if they fail to observe the terms of the treaty. The king requires, and the *kosmoi* promise, that the soldiers or mercenaries supplied shall be free men and armed.

From another important, though badly mutilated, inscription from Eleutherna,<sup>3</sup> it seems possible to conclude that the *kosmoi* of Eleutherna had jurisdiction over the *Artemitai*. The *Artemitai* appear to have been a civic community of some kind, a township or a village, or group of villages, in the neighbourhood of Eleutherna. It may be that we should connect their name with the cult of Artemis at Eleutherna,<sup>4</sup> and infer that they were a perioecic community of some kind, similar to those already noticed. It is not clear whether *kosmos* in the fourth line of the inscription means *protokosmos* or all the *kosmoi*, nor is there any indication of what is to be shown at his or their bidding, under penalty of a fine of five staters for failure to do so. But it does seem clear from what follows that the *Artemitai* were subject to restrictions on their movements, and that failure to inform the *kosmoi* of intention to leave entailed a kind of excommunication.<sup>5</sup>

The Kydonian decree of 201 B.C.,<sup>6</sup> relating to Teos, uses *archontes* as a variant for *kosmoi*, which also occurs in the same document. The variant was probably due, we may assume, to intercourse with the cities of the Greek mainland such as Athens.

Whether the *damiorgoi* mentioned at Polyrrhenia,<sup>7</sup> and at Olous<sup>8</sup> in Central Crete, were identical with the *kosmoi* is a matter of dispute. These magistrates are also mentioned at Olous in further

<sup>1</sup> IC 2.XII.20. For detailed discussion of the text see Doublet in BCH XIII (1889) 47, Halbherr AJA XI (1896) 582, Guarducci *ad loc.* Cf. Tarn JHS XXIX (1909) 270. Others consider that the treaty was made with Antigonos Gonatas, not with Antigonos Douni: see Tod IAG 31.

<sup>2</sup> B. XII.22 B.

<sup>3</sup> Guarducci *ad loc.*

<sup>4</sup> Such appears to be the meaning of τὰ θῆλα μὲν ἐνὶ τῷ τῶν (lines 12-13).

<sup>5</sup> IC 2.X.2.

<sup>6</sup> B. XXIII.7 A (1st half 3rd C. B.C.) and 7 B (end 3rd or early 2nd C. B.C.).

<sup>7</sup> IC 1.XXII.4 A and 4 B. These consist of a number of decrees of which the first eight (A) belong to the middle of the 3rd., the next four (B) to the beginning of the 2nd C. B.C.

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decrees of the second century B.C.<sup>1</sup> In his discussion of the earlier of the two, belonging to the beginning of the century, Van Effenterre, remarking that the decree is dated by the names of three *damiorgoi*, the normal practice in decrees of that city, reviewed the current opinion about these officials. Most scholars, he remarked, consider that they are identical with the *kosmoi*, and some hold that they were of Rhodian origin.<sup>2</sup> The use of the plural, 'Ἐνὶ δαμιοργῶν, in the inscription under review, showed that the *damiorgos* was not merely the equivalent of the *protokosmos*.<sup>3</sup> Since *kosmoi* and *damiorgos* sometimes occur together, the possibility that the different terms were merely adopted at different times could not be entertained. He saw no other explanation but to suppose that certain members of the body of *kosmoi* at Olous bore the name of *damiorgoi*,<sup>4</sup> although we may not be able to define precisely the differentiation within that body. He suggested the possibility that the *damiorgoi* were eponymous in certain actions for the simple reason that such actions came within their special jurisdiction. There might have been certain members of the *kosmoi* who had charge of personal relations with citizens or aliens, and of private affairs in which the state was obliged to take some part.<sup>5</sup> As an eponymous magistrate distinct from the *protokosmos*, the *damiorgos* would be like the Gortynian *ksenios kosmos* or the Athenian polemarch, in relation to non-citizens. Although the necessity of seeking a foreign origin is not clear,<sup>6</sup> if it is to be sought, it would be to Thera rather than to Rhodes that we ought to look.<sup>7</sup>

Although further speculation is not likely to prove profitable in the present state of our knowledge, another possibility should not be overlooked—namely, that the *damiorgoi* were a body distinct from the *kosmoi* (perhaps a section of the Council?)—especially if we bear in mind the distinction between the third and second century

<sup>1</sup> Texts, bibliography and discussion in Van Effenterre CMG 231 and Appendix I.

<sup>2</sup> Guarducci RF 8 (1930) 57; Mutelsee ZVK 20 n. 1. Cf. Robert REG (1933) 439.

<sup>3</sup> Guarducci *ibid.*: 'à Olous, il demiurgo est sempre uno solo.' Cf. *ad* IG 1.XXII.4 p. 251; '... vox δαμιοργός in titulo nostro nunc protocosmum . . . nunc totum comorum collegium significat.'

<sup>4</sup> Van Effenterre compared the *kosmoterai* at Itanos. (See p. 126.)

<sup>5</sup> 'ainsi s'occupaient-ils des proxénies (IG 1, Olous, 4), des décrets honorifiques (le texte étudié ci-dessus), des dédicaces (IG 2, Polychénia, 7 et 8).'

<sup>6</sup> Van Effenterre compared the *damiioi* in the archaic Dorian inscription (BCH LXI). Cf. p. 105 n. 5.

<sup>7</sup> Citing IG XII 3.450.



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formulae in the lengthy Olountian inscription (IC 1.XXII.4), where mention of *kosmoi* is excluded from the former.<sup>1</sup>

However that may be, Guarducci, discussing the Polyrhénian inscriptions (I.C. 2, p. 246), considers that here, as at Olous, the *damiorgoi* were the same as the *kosmoi*, but suspects that, whilst at Olous the name is to be attributed to Rhodian, at Polyrhénia it was due to Achaean influence.

In another inscription from Polyrhénia,<sup>2</sup> either *ἐπὶ κόσμων* or *δαμιοργῶν* seem to be required before the list of names. The date may suggest the latter, if we assume that the *kosmoi* were the equivalent of *damiorgoi*. In that case, there would be a minimum of eleven here, compared with five in the preceding inscription.

In East Crete, Hierapytna provides us with another example of a treaty with Antigonos Doson,<sup>3</sup> similar in its terms to the treaty made with Eleutherna, and with similar responsibilities devolving upon the *kosmoi*. A badly mutilated fragment of a treaty between the Hierapytnians and the Cretan Arcadians,<sup>4</sup> of about the same date, testifies to the friendly relations between the two states at the time. It seems that the *kosmoi* were penalized if they neglected to perform certain prescribed sacrifices; and that they were responsible for the ceremony of the oath taken by the young men leaving the *agela*. In a treaty with the Lyttians,<sup>5</sup> the Hierapytnian *kosmoi* were subject to the considerable fine of one hundred staters if they neglected a prescribed sacrifice, unless a war excused them from their responsibility.

The *kosmeteres* of Itanos seem to have been the same as the *kosmoi*.<sup>6</sup> In one decree,<sup>7</sup> all the citizens are put under an obligation to take an oath of loyalty of the kind referred to by Xenophon.<sup>8</sup> The administration of this oath is to be the joint responsibility of

<sup>1</sup> For example A V 35 reads: *Ἐπὶ δαμιοργῶν Λεύκων, ἔδοξε τοῖς πολλοῖς κτλ.* and B IX 1-5 reads: *Ἐπὶ δαμιοργῶν Αἰ|τοσθένους ἔδο|ξε Ὀλουστίων | τοῖς κόσμοις καὶ || τοῖς πόλεσι κτλ.*

<sup>2</sup> IC 2.XXIII.8.

<sup>3</sup> IC 3.III.1 A. To be assigned perhaps to 227-224 B.C. according to Guarducci *ad loc.* Cf. however Tod IAG 37.

<sup>4</sup> *Ibid.* I B. It is inscribed on the same stone as I A and the style of writing is the same.

<sup>5</sup> *Ib.* III.3 B (late 3rd or early 2nd C. B.C.).

<sup>6</sup> *Ib.* IV. 3,4,6,7. Kirsten DIK 162. Cf. Guarducci RIA 8 (1940) 9 and *ad loc.*

<sup>7</sup> *Ib.* 7.

<sup>8</sup> *Mem.* 4.4.16: *πανταχοῦ ἐν τῇ Ἑλλάδι νόμος κεῖται τοὺς πολῖτας δυνάμει δαμονοῦσθαι, καὶ πανταχοῦ δημόνους τὸν ὕρκιον τοῦτον.*

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the *kosmoi* and the priests, while the accompanying imprecation is the special responsibility of the priest.

Since the *kosmoi* are called *archontes* in this and the following Italian inscription, in a Praesian inscription,<sup>1</sup> and in a Kydonian inscription,<sup>2</sup> it seems that parts of Eastern and Western Crete in the third century employed the title for their highest office which was common in Greece, and especially in Athens.

The *kosmoi* are made further responsible for administering the oath to anyone arriving in the city after the general ceremony, within a period of ten days after arrival. They must also deposit the register of names, with patronymics, of those who take the oath, in the shrine of Pythian Apollo, keeping a copy themselves.

Necessary steps are taken to ensure that the provisions of the decree are followed, and fines are stipulated for any negligence on the part of officials responsible. The first of these measures seems to contradict the previous arrangement whereby the imprecation is made the special responsibility of the priests. For in the appropriate section of the decree, the oath and the imprecation are said to be the responsibility of the *kosmoi*. Two explanations are possible. Either the priests were included among the *kosmoi*, or the *kosmoi* were responsible for ensuring that the priests performed the imprecation. Both explanations are plausible, but, in view of the important part played in other cities by a *kosmos* with priestly functions, the first explanation is perhaps the more likely.<sup>3</sup>

In case of negligence, it is laid down that each of the *kosmoi* should pay a fine of a hundred drachmas to the state, and furthermore that the fines may be presented to the *logistai*, but the *praktōres*, who exact the fines, should hand them over to the incoming *kosmos*.<sup>4</sup> The *logistai*, whose administrative functions are known to us in Athens and other cities, are mentioned only here in Cretan inscriptions, although their duties must have been similar to those of the Gortynian *titai*.<sup>5</sup> Since the Council in other Cretan cities is sometimes responsible for punishing the *kosmoi* in case of negligence, it is likely that the *logistai* belonged to the Council.<sup>6</sup> The same may be true of the *praktōres*, also only mentioned here in Crete, but familiar at Athens.

<sup>1</sup> IC 3.VI.9.

<sup>2</sup> IC 2.X.2.

<sup>3</sup> Cf. however Guarducci *ad loc.*

<sup>4</sup> φανέτω δὲ ὁ χιφίσων εἰς τοὺς λογιστὰς, τοὶ δὲ πρὸς πρακτορεὺς ἐκπεράξαντες παραδόντων | τῷ νόμῳ τῶν ἐπέρχοντι (lines 20-23).

<sup>5</sup> Guarducci *ad loc.* Cf. Köhler-Ziebarth 55.

<sup>6</sup> Guarducci *ad loc.*



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The injunction that the *kosmoi* should pay fines to their successors may imply that, at this time, they were in the habit of rendering accounts to the *logistai* when their office expired<sup>1</sup>—and not that they had to pay the fines before their office expired.<sup>2</sup> It is further enacted that, if the *praktōres* do not exact the fines, they then become liable to a fine of double the amount.

Anyone who refuses the oath is deprived of his citizen's status. The *kosmoi* are made responsible for its publication before the shrine of Pythian Apollo and in the shrine of Asklepios. The oath is to have immediate effect, and the *kosmoi* are to ensure the registration of the citizens.<sup>3</sup>

The actual oath referred to appears to be that which is found in another Itanian inscription.<sup>4</sup> The oath begins with an invocation to the city's gods, and the citizen then swears not to betray the city or its islands. (The islands of Onysia and Leuke appear to be intended.) He also swears not to bring enemies in; not to betray the city's ships, or any of its citizens or their property; neither to provoke any assembly or conspiracy directed against the city or its inhabitants, nor to join with anyone else who might conceive such intentions, but to report the matter to the *kosmoi*. Furthermore, that he will initiate no re-distribution of the land, dwellings or dwelling-sites, and no cancellation of debts.<sup>5</sup> There follows a prohibition against corrupt legal practices, though the exact meaning is not clear.<sup>6</sup>

The citizen pledges himself to consider the best interests of his

<sup>1</sup> Cf. Arist. *Ath.* 48.9.

<sup>2</sup> Guarducci *ad loc.* Cf. RIA 8 (1940) 7.

<sup>3</sup> ἀγγέλ[ω δὲ ὁ θεός ἐπὶ τοῦ τῶν κόσμου, τοῦς δ' ἐ πόλιτας πάντα ἀπογράφασθαι πρὸ τοῦ] δρυὸς πατριωστί ποτὶ τοῦς κοσμητῆ[ρ]ας (lines 31–5). *Kosmos* here must signify all the *kosmoi*. But, whilst they have been called *archontes* in the earlier part of the decree, they are now referred to as *kosmeters*. It may be that the magistrates at Itanos were called *kosmoi* or *kosmeters* indifferently, or that *kosmeters* was used of individual members of the *kosmos*.

<sup>4</sup> IG 3.IV.8.

<sup>5</sup> Cf. *Isoc. Panath.* 287 b: ἐν δὲ τῇ Σπαρτιατῶν οὐδεὶς ἂν ἐπιδείξειεν οὔτε στάσειν - - ἀλλ' οὐδὲ πολιτείας μεταβολὴν οὐδὲ χρῶν ἀποκοπὴς, οὐδὲ γῆς ἀναδασμόν, οὐδ' ἀλλ' οὐδὲν τῶν ἀνθρώπων κακῶν.

<sup>6</sup> οὐδὲ δύναν ἐ[παξέ]ω ξενικῶν τῶν πολιτῶν | οὐδὲ γι' ἐρωτητῶν παρεορῆσι οὐ[δε]μ[ι]ᾱ (lines 24–27). Halbherr (MI 3 (1890) 563) thought that δύναν ξενικῶν referred to a proceeding similar to the Athenian *γραφὴ ξενίας*. De Sanctis (AJA V (1901) 326) commented: 'It seems that the citizens were under obligation to settle the controversies which might arise between them and Itanos, and were not to carry their disputes before the *κόσμος ξένος* of another city. The opportunity might present itself when two citizens of Itanos might meet in foreign parts, whether for war or for business'. Cf. Guarducci *ad loc.*

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city, to observe existing laws, and those which may be promulgated in future, and not to desert his city in peace or in war. The oath concludes with a blessing of general prosperity for those who observe it, and an imprecation against those who do not.

The stern provisions of the oath are an indication of political instability, and will be discussed from this point of view later.

From Praisos we have a decree of considerable importance.<sup>1</sup> It defines the duties imposed by Praisos on the Stalitai, and refers to certain services required from the Setaetai, thus making it possible to infer that both were perioecic communities under the control of Praisos.<sup>2</sup> The decree also makes it clear that the power of Praisos was, in the third century, quite considerable. For the Stalitai appear to have inhabited a port on the south, the Setaetai a port on the north shore of the island.

The Praisians allow the Stalitai to retain their land, their city and their islands, and to collect harbour-dues and taxes on purple and other fisheries on condition that they give half the income to Praisos. The islands must have been situated off the southern coast, Leuke being the most important,<sup>3</sup> and they would thus be in a position of double dependence, directly on the Stalitai, and, through the Stalitai, on Praisos. The form in which the arrangements are couched implies that the Stalitai have been forcibly subjected to Praisos. But that this subjection represents a further encroachment on their independence, rather than an unprecedented deprivation, seems to be implied by a reference to earlier arrangements about taxes on fisheries.

So far the status of the Stalitai may be compared with that of the Kaudians. But whereas the decree relating to the Kaudians is expressed in a form usually associated with alliances, including freedom and autonomy, whilst the context makes it clear that the subjection is so complete as to make it impossible to regard the Kaudians as allies of the Gortynians in any but a purely formal sense, in this case there is no room even for formal ambiguity. For the annually elected *kosmoi* of Praisos are given control of the Stalitai and, along with twelve Praisian citizens, swear an oath annually to observe the conditions of the decree relating to the

<sup>1</sup> IC 3.VI.7 A, B.

<sup>2</sup> Larsen PC 20. But cf. Guarducci *ad loc.*: 'unde apparet Stalitas id aetatis Praesiis si non specie omnino, re autem subiectos fuisse . . . et Setaetarum civitas . . . Praesiis parebat'.

<sup>3</sup> Guarducci *ad loc.* Cf. *ib.* pp. 1-2.



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Stalitai. If we compare this decree with that relating to Kaudos, noting with Larsen,<sup>1</sup> 'that it often may have been a short step from a treaty of alliance with a stronger state to the reduction to the status of perioeci', we may infer that the reference to earlier arrangements about taxes on fisheries gives ground for supposing that the Kaudians and the Stalitai travelled a similar road to perioecic subjection. The subordination of the Stalitai might well have been both more disguised and less severe at an earlier stage.

The *kosmoi* are to bind all other citizens by the same oath which they have themselves taken. Late comers take the oath on the day of their arrival in the city, as compared with the ten days' grace in the case of the Itanian oath.

The Stalitai are also obliged to serve Praisos by undertaking sea voyages. The voyages specified seem to be of three kinds:<sup>2</sup> to other parts of Crete; to Delphi or Olympia; or to any other place outside Crete. When they sail to other parts of Southern Crete, they must do so at their own expense. If the Setaetai<sup>3</sup> voyage to Delphi or Olympia with the Stalitai, they must make the journey at their own expense, providing necessities and also wages. The provision about other voyages outside Crete is thus expressed: *πλεῖν δὲ τὰ ἔξω [Κρή]τας κατὰ τὰ μέγεθ τῶν χωρῶν Σηταῖτας καὶ Σταλίτας* (Il. B. 15-17). This was interpreted by Halbherr<sup>4</sup> as indicating the places likely to be visited by each city according to its situation; that is, the Stalitai would go to the south, the Setaetai to the north.

Those who undertake such voyages outside Crete (excluding Delphi and Olympia) are to be paid by the *kosmoi* at the rate of a drachma a day, using the money extracted from those who have refused the service. From which we can infer that the *kosmoi* of Praisos supervised these services; and also that commutation of services was allowed, at least in the case of certain voyages.

As for the Council, though no information is available from Gortyna, there is a certain amount from other cities of Central Crete. Thus the inscription containing the oath of the Drierians clearly reveals the important part played by the Council at this

<sup>1</sup> *Id.*

<sup>2</sup> Guarducci, citing Dittenberger, *ad loc.* The distinctions seem clearly intended.

<sup>3</sup> So that Setaea must have been a port of Praisos at this time.

<sup>4</sup> See MA 6 (1895) 299. The explanation is more likely than those of Blass (SGDI 5120), 145. 'alterna vice' or 'pro territori magnitudine ad utramque civitatem pertinentis'. Cf. Guarducci *ad loc.*

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period in the city's public life, as we have seen.<sup>1</sup> The Council was, as we have also seen already,<sup>2</sup> prominent at Knossos too, but here in conjunction with the *kosmoi* in matters relating to judicial functions.

There is no mention of the Council in inscriptions of the period from West Crete. But in East Crete, the Council is mentioned in a number of contexts of some interest. For the Council of Itanos shares responsibility for several decrees, and the Council of Praisos responsibility for one decree, with the Assembly, which must be considered.

First, let us examine the evidence about the Assembly elsewhere. At Gortyna, the Assembly features in a number of inscriptions, where the word *polis* has now definitely replaced *agora*. A well-known decree<sup>3</sup> orders the use of the bronze money which the city has put into circulation, and the non-acceptance of silver obols. If anyone accepts silver obols in payment, or refuses to accept bronze money, or sells anything in exchange for grain,<sup>4</sup> he shall pay a fine of five silver staters. Disputes in these cases are to be referred to the *neotai*, of whom seven elected by lot are to give judgment under oath.<sup>5</sup> Judgment is given in favour of the party who gains a majority of votes, and the tribunal of seven must exact penalty from the losing party, paying half to the successful party in the suit, and half to the city.

'This inscription', wrote Halbherr,<sup>6</sup> 'is extremely important from many points of view, especially for the history of coinage in Crete. It is an enactment which must have been issued immediately after the creation of bronze coinage. That the law which established this innovation was a recent one, may be seen clearly from the entire context of the decree. This money has not yet secured the confidence of the market; the people is not getting accustomed to it and accepts it in payment with difficulty. On the other hand it is possible that financial conditions induce the city to withdraw from circulation in mass the silver pieces below the drachma, that is to say the obols. This makes it necessary that

<sup>1</sup> P. 120.

<sup>2</sup> P. 117 and n. 1.

<sup>3</sup> IC 4.162. Now generally dated to 3rd C. B.C. Halbherr (AJA I (1897) 191) considered that it belonged to the first quarter of the 4th C., or at latest to the following decade. This opinion has not won support. Cf. Guarducci *ad loc.*

<sup>4</sup> I.e. receiving or requiring grain in payment: Halbherr *ib.* 192.

<sup>5</sup> For discussion of the *neotai* and the 'seven' see pp. 187-91.

<sup>6</sup> *ib.* 193. Cf. DHR II 330-1.



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what would now be called a forced circulation should be given to the small bronze coinage. For this purpose the Gortynians issue the present decree which imposes a fine on whoever refuses the new money, receives or demands the former silver money, and which also forbids—of course temporarily—even petty trading by payment in kind (*καρπός*), which must have been the most ordinary form.<sup>1</sup>

Our immediate concern, however, is with the preamble to the decree, which makes it clear that it was a decree of the Assembly, with three hundred members present, exactly the same number as is found in a decree of the second century.<sup>2</sup> In view of Aristotle's statement about the composition of the Assembly—*ἐκκλησίας δὲ μετέχονσι πάντες*<sup>3</sup>—the number seems small for such a city as Gortyna. Hence the likely suggestion, offered by Halbherr and followed by Guarducci, that this number represents the minimum required for a legal quorum.

Aristotle, in the same context, informs us that the Cretan Assembly had no powers except to confirm by vote the resolutions already decided upon by Elders and *kasmoi*. Halbherr<sup>4</sup> found this assertion not to be supported by the preamble of this and other decrees of Gortyna. To what extent his doubt is justified is a matter to which we shall return when all the evidence is reviewed.

When the several Gortynian decrees of manumission were mentioned earlier,<sup>5</sup> it was pointed out that all are civil acts of manumission, and that several of them<sup>6</sup> relate to public slaves freed by the state. The necessity of ratification of such decrees by the Assembly (*ἡ πόλις*) is a revealing indication, not merely of the legislative power of the Assembly in these cases, but also that public slaves were considered to belong to the citizen body.

The difficulty in explaining the joint control of Gortyna and Phaistos over the Kransopeioi, implied in the decree of this period, has already been indicated.<sup>7</sup> Although it seems correct to infer that Phaistos was more or less subject to Gortyna at the time, since only one set of *kasmoi* is mentioned, undoubtedly that of

<sup>1</sup> IG 4.181 b 7.

<sup>2</sup> *Pol.* 1272 a.

<sup>3</sup> *Id.* 195.

<sup>4</sup> *P.* 44.

<sup>5</sup> IG 4.231 (3rd C.); 233 (c. 3rd C.); and perhaps 236 (later 4th-early 3rd C.). With regard to the latter, Guarducci (*ad loc.*), arguing from a comparison of this inscription with 233, where it seems likely that we should read ἀπελεύσας ἡ πόλις οἱ Γορτύνιοι, doubts whether ἀνέλασαν can be understood here as a form of ἀπελευθέρωσις, suggests the likely change to ἀπελεύ(γ)σας and supposes that the inscription is a decree of manumission.

<sup>7</sup> Pp. 117-18.

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Gortyna, the preamble implies that both cities had their separate Assemblies, just as they had their own courts. Each Assembly, it appears, had to ratify a decree relating to those under subjection to both cities. That the hegemony of Gortyna should be marked by the dating of the document by a single set of *kosmoi*, and that the relative autonomy of Phaistos should, at the same time, be indicated by its right to independent courts and to its own Assembly, which had distinct powers of ratification, is a matter of some interest and importance. For it seems to throw further light upon the description of such peoples as the Rhittienians and Kaudians as *αὐτόνομοι καὶ αὐτόδικοι*, in itself an apparently ambiguous phrase. The existing apparatus of the more or less subjugated state continued to function, but was no doubt used to ratify and further the policies of the state which held the hegemony, and hence the power of initiative in the most important spheres of activity.

In a letter to the Coans<sup>1</sup> the Assembly is associated with the *kosmoi* in the despatch of greetings to the Council and People of the foreign state. The formula used (*οἱ κόσμοι καὶ ἡ πόλις*) implies the widest possible official endorsement of the communication which follows, expressing gratitude for the services of a Coan physician.

In the other cities of Central Crete, the Assembly plays a part in the decree of 201 B.C. relating to Teos, and in other inscriptions.

It may be that at Apollonia, in 201 B.C., there was a Secretary of the Assembly.<sup>2</sup> At Istron, at the same date, there was more than one Secretary of the Assembly.<sup>3</sup> They are instructed to publish a decree in the temple of Athene Polias. In this decree, which relates to Teos, the Assembly is called the *koinon*, and it clearly played an important part at Istron in foreign relations, the reception of ambassadors and the issue of decrees. In the same way, at Knossos, the decree of 201 B.C. concerning Teos<sup>4</sup> has to be published in the temple of Apollo Delphidios, and the Assembly is associated with the *kosmoi* in honouring an embassy from another state. At Lato, as at Istron, the Assembly is referred to as the *koinon* in two decrees of 201 B.C. concerning Teos.<sup>5</sup> At Lyttos the Assembly is associated with the *kosmoi* in a decree concerning

<sup>1</sup> IC 4.168.

<sup>2</sup> IC 1.III.1.10, where the words *γραμματεῖα τῆς πόλεως* seem a likely restoration. Cf. SGDI 5175.

<sup>3</sup> Ib. XIV.1.42.

<sup>4</sup> Ib. VIII.8.

<sup>5</sup> Ib. XVI.2 and 15.



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relations with a foreign state.<sup>1</sup> A similar responsibility is exemplified by inscriptions from Olous,<sup>2</sup> Rhaukos,<sup>3</sup> and Tylisos.<sup>4</sup>

In West Crete, the decrees of 201 B.C. relating to Teos from several cities provide further evidence of the association of *kosmoi* and Assembly in foreign policy.<sup>5</sup> The usual formula is *δεδοχθαι* (or *ἔδοξε*) *τοῖς κόσμοις καὶ τῇ πόλει*. But in the Axian decree relating to Teos, the phrase *γαμίζαμένοις κατὰ τὸν νόμον* is added to the conventional formula.<sup>6</sup> This may indicate that, at Axos, certain measures had to be put to the vote in the Assembly, the law enjoining something more than a formal ratification.

The important part played by the Assembly in carrying out the terms of the treaty between Eleutherna and Antigonos and, in particular, the emphasis given to the responsibility of the *kosmoi* for convening the Assembly when the foreign envoys arrive, has been indicated.<sup>7</sup> It is clear that the convening of the Assembly by the *kosmoi* is an important prior condition of any action taken to implement the terms of the treaty.

At Polyrhenia, the Assembly is concerned with the *kosmoi* in relations with Thebes,<sup>8</sup> as well as Teos. It is also responsible for the restoration of a dedication,<sup>9</sup> the eponymous magistrates being mentioned to date the inscription, but not otherwise as formal participants.

In several inscriptions from Eastern Crete occurs the phrase *κυρία ἐκκλησία*, normally associated with,<sup>10</sup> and, on the face of it, indicative of, a democratic regime. To this aspect of the matter we shall have to return (Chapter XVI). Meantime, the content of an important inscription from Itanos<sup>11</sup> which contains the formula, is deserving of a full summary at this stage, because it illustrates certain conditions of a special kind, obtaining between two states, where the Assembly plays a decisive part in affairs of citizenship.

<sup>1</sup> *Ib.* XVIII.8.

<sup>2</sup> *Ib.* XXII.4 A. (The Proxeny decrees, already referred to in a different connection.)

<sup>3</sup> *Ib.* XXVII.1. (Decree of 201 B.C. relating to Teos.)

<sup>4</sup> *Ib.* XXX.2. (The Assembly concerned with a request for *asylia* from a foreign state.)

<sup>5</sup> IG 2.I.1 (Allaria); V.17 (Axos); XII.21 (Eleutherna); X.2 (Kydonia); XVI.3 (Lappa); XXIII.9 (Polyrhenia); XXVI.1 (Sybrita).

<sup>6</sup> Cf. the 2nd C. decree from Malla (pp. 147-8). P. 124

<sup>7</sup> IG 2.XXIII.1.

<sup>8</sup> *Ib.* 7 B: *Ἐπὶ δημοσίων δὲ πόλει ἐπισκεύασιν κτλ.*

<sup>9</sup> Arist. *Ath.* 43-4. Cf. Van Effenterre CMG 165; Muttelsee ZVK 14.

<sup>11</sup> IG 3.IV.1 B. δια[γ]ραφ[ῆ]ς ἐσθ[ῆ]ς ἐν κερ[ε]λ[ῆ]ι ἐκκλησί[ῃ]ι πότ[ε]ρ[ε]σ[ιν] δ[ι]σκε[ῖ] πολ[ι]τε[ῖ]σ[ιν] δε[δ]οχ[θ]ῆ[ναι] ἢ μὴ (lines 20-27).

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The inscription is a copy of a treaty between Hierapytna and Praisos which had to be deposited in a temple at Itanos. Although it is formally similar to other treaties of alliance, it has peculiar features which make it impossible to regard it as a treaty of *isopoliteia*.<sup>1</sup> It is agreed that, after formally disposing of his property in his city of origin, any citizen of either state can assume the rights of a citizen of the other state, with full participation in all affairs, divine and human, provided that he renounces citizenship of his native state. Tribal kinship is envisaged as a precondition of the possibility of this interchange of status:  $\delta[\epsilon] \parallel \kappa\alpha\ \eta\iota\ \epsilon\pi\phi\upsilon\lambda\omicron\varsigma,$   $\kappa\alpha\iota\ \omicron\upsilon\tau\omega\ \mu\omicron\lambda\iota\tau\epsilon\upsilon\epsilon\theta\omega\ \kappa\tau\lambda$  (ll. 4-8).

If a citizen of one state does present himself as a candidate for citizenship in the other state, the sovereign Assembly must determine his suitability by vote. If three opposition votes are cast, he is not eligible. Hence there is no question of *isopoliteia*. The right of citizenship is individually considered and conferred, and is dependent upon the formal relinquishment of citizenship in the native city and the almost unanimous consent of the Assembly of the other city.

Reciprocal rights of pasturage are granted, subject to certain specified safeguards: for the Hierapytnians on the territory of Praisos, with the exception of two sacred enclosures; and for the Praisians on the territory of Hierapytna. The citizens of one city can take part in the choral dances and athletic exercises of the other city.

It has been suggested that the reason for this unusual friendly relationship between two neighbouring Cretan cities was due to the need for mutual solidarity against Itanos, which was at this time under the protection of Egypt.<sup>2</sup> But the preservation of a copy of the treaty by Itanos may rather indicate friendly relations between all three states.<sup>3</sup>

The phrase *κυρία ἐκκλησία* also occurs in two inscriptions from Praisos, dated approximately to the third century. In the first of these,<sup>4</sup> the formula reads  $\epsilon\delta\omicron\upsilon\tau\epsilon\ \mu\upsilon\sigma\epsilon\iota\omega\ \tau\omicron\iota\varsigma\ \alpha\pi\omicron\lambda\omicron\upsilon\sigma\iota\ \kappa\alpha\iota\ \tau\omega\iota\ \mu\omicron\iota\tau\omega\iota,$   $\epsilon\kappa\kappa\lambda\eta\sigma\iota\alpha\varsigma\ \mu\omicron\upsilon\sigma\epsilon\iota\omega\varsigma\ \gamma\epsilon\gamma\omicron\mu\epsilon\tau\eta\varsigma$  (ll. 2-4); and the second inscription reads:  $\Theta\epsilon\acute{o}\varsigma\cdot\ \kappa\acute{o}\sigma\mu\omicron\nu\ \gamma\acute{\nu}\omega\mu\alpha\ \acute{\alpha}\gamma\alpha\theta\acute{\alpha}\iota\ |\ \tau\acute{\upsilon}\chi\alpha\iota\ \epsilon\delta\omicron\upsilon\tau\epsilon\ \mu\upsilon\sigma\epsilon\iota\omega\iota\ |\ \omega\sigma\ \tau\acute{\alpha}\iota\ \beta\omicron\nu\lambda\acute{\alpha}\iota\ \kappa\alpha\iota\ \tau(\acute{\omega})\iota\ \parallel\ \mu\omicron\iota\tau\omega\iota,$   $\epsilon\kappa\kappa\lambda\eta\sigma\iota\alpha\varsigma\ |\ \mu\omicron\upsilon\sigma\epsilon\iota\omega\varsigma\ \gamma\epsilon\gamma\omicron\mu\epsilon\tau\eta\varsigma\ |\ \dots$ . In both cases, the juxtaposition of the more general

<sup>1</sup> Reinach REG 24 (1911) 376; Muttelsee ZVK 16; further bibliography Guarducci *ad loc.*

<sup>2</sup> Reinach *ib.* 391.

<sup>3</sup> Guarducci *ad loc.*

<sup>4</sup> IC 3.VI.9.

<sup>5</sup> *Ib.* 10.



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*koinon*, 'the Commons', with the more specific and technically more democratic *ekklesia* is of interest. Though the wording of both could indicate a sovereign Assembly, the preamble to a Praisian inscription<sup>1</sup> of the early part of the third century is quite conventional, viz.: "Ἐδο[ξε] τῷ κόσμῳ καὶ τῇ πόλει τῇ Πρασιῶν κτλ.

The ratification of a motion from the *kosmoi* by Council and Assembly, in the second of the Praisian inscriptions referred to above (VI.10), may be compared with several inscriptions from Itanos. When honours are conferred upon a general sent by Ptolemy,<sup>2</sup> the part played by the Assembly is as usual in such matters at this time. But the formula is: *κόσμον γνώμα. ἔδοξε Ἰτανῶν* | *τῇ βουλῇ καὶ τῇ ἐκκλησίᾳ*, and the use of the word *ekklesia* has been interpreted as an indication of a relatively democratic constitution.<sup>3</sup> The combination of Council and Assembly is significantly novel, and it can be supposed that the Council at Itanos had changed its aristocratic character, assuming functions more in keeping with the apparently more democratic constitution indicated by the part played by the Assembly.<sup>4</sup> But, without discussing the problem further at this stage, it should be observed that, although ratification is made by the Council and Assembly, the motion was initiated by the *kosmoi*, as was the case also with the decree from Praisos.

However, the authoritative combination of Council and Assembly is even more marked in the case of an Itanian decree of the middle of the century,<sup>5</sup> honouring Ptolemy III and his wife Berenike. The *kosmoi* are made responsible for the publication of the decree in the sanctuary of Athene Polias, and the expenses are authorized from public funds. The use of *psaphisma* for 'decree' suggests a technical difference between a decree passed by a majority of votes, for which Council and Assembly were primarily responsible, as compared with the *kosmou gnoma* of the example cited above, which suggests ratification, no matter how necessary and authoritative, of a decree for which the *kosmoi* were initially responsible.

<sup>1</sup> *IB.* 7 A.

<sup>2</sup> Guarducci *ad loc.*

<sup>3</sup> *IB.* IV. 2 and 3. Two examples of the same decree.

<sup>4</sup> Cf. Muttelsee ZVK 21.

<sup>5</sup> IC 3.IV.4. *ἔδοξε τῇ βουλῇ καὶ τῇ ἐκκλησίᾳ* (line 7). The example may not be isolated. In the case of a decree of c. early 3rd C. B.C. (*ib.* 7), although the opening lines are mutilated, it is likely that Council and Assembly played the major part in ratification. See Guarducci's restoration *ad loc.*

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### 5. THE FIFTH PERIOD (SECOND CENTURY)

A treaty of the Gortynians and Hierapytnians with the Priansians, from the beginning of the period, provides us with some interesting information.<sup>1</sup> It seems that magistrates, *kosmoi* particularly, had to wear appropriate ceremonial clothing when going to another city. Here—unless we are to suppose that Hierapytna is implicitly included, Gortyna only being mentioned, as the most important city—it is noteworthy that the Gortynians and Hierapytnians are allowed to wear these clothes at Priansos, whilst the Priansians can only wear them at Gortyna. It is clear that importance was attached to the formality.

The *kosmoi* are still obliged to pay fines if they neglect certain specified duties.<sup>2</sup> A good example occurs in a treaty with Sybrita,<sup>3</sup> which was drawn up at Gortyna, where the *kosmoi* must pay a fine to the other city, if they do not properly publish the terms of the treaty.

A notice of manumission<sup>4</sup> concludes with the words: *πρόκορμος* | *Βλαυθένης Σαμαρόρα*. The suggestion that *prokormos* means the same as *protokosmos* derives from Blass and De Sanctis. The correlation was denied by Maiuri,<sup>5</sup> and Guarducci supports the objection by citing the early Gortynian evidence that *pro* could mean *anti*. So that the president of the *kosmoi* will have been mentioned in the first line of the inscription, to date it, whilst another person, in his stead, is actually responsible for the formal manumission.

An inscription,<sup>6</sup> dated roughly about the beginning of the period, preserves a list of eleven *kosmoi* who were apparently responsible for the construction of a hero's shrine. It is remarkable that eleven *kosmoi* are mentioned because, in other inscriptions from Gortyna and other cities where *kosmoi* are enumerated, there are less than ten, with the exception of one set of ten names at Hierapytna,<sup>7</sup> which provides the only case of agreement with the

<sup>1</sup> IC 4.174. I follow Guarducci regarding date and nature of the treaty. The lines on which I comment here read: *ἔχει τὸ ἡμῶν ἀμφανὲς ἐπὶ τῷ Γορτύνιος καὶ Ἱεραπύτνης Πριαννοῖ καὶ Πριαννοῦς Γόρτυνι* (lines 55-6). Cf. also IC 1.XVI (Lato) 5.31; Guarducci *ad loc.*; Poll. 7.77.

<sup>2</sup> *Ib.* 175 (early 2nd C.).

<sup>3</sup> *Ib.* 183 (c. 2nd C.).

<sup>4</sup> *Ib.* 235.

<sup>5</sup> *Rind. Line.* 19, (1910) 116 n. 1: 'Πρόκορμος non va certo con πρωτόκορμος come par che pensi il Blass, ma starà a κόρμος, come in qualche modo, πρόδοκος sta a δασεύς.'

<sup>6</sup> IC 4.259.

<sup>7</sup> IC 3.III.9.



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statements of Aristotle<sup>1</sup> and Strabo<sup>2</sup> that the *kosmoi* numbered ten. There is thus something to be said for the view of De Sanctis that the name of the secretary to the *kosmoi* has been added to the list.<sup>3</sup> One of the *kosmoi*, the fifth in the list, is specifically entitled *hierorgos*, and the mention of this official, here and elsewhere,<sup>4</sup> implies that one of the *kosmoi* was responsible for religious matters.

The important decree of the Gortynians concerning the island of Kaudos,<sup>5</sup> to which several references have already been made, also belongs to the beginning of the period, and can now be discussed in some detail. That Gortyna should have had close ties of a special kind with this island off the south-west coast is less surprising than it might be if it were not established that relations also existed between Gortyna and certain cities in the south-west, in particular with the Elyrians<sup>6</sup> and Orians.<sup>7</sup> It is very likely that relations were established between Gortyna and Kaudos before the second century.<sup>8</sup>

The decree begins: *Ἀγαθ]αὶ Τέχαι. ἐπὶ τῶν Αἰθελέων*<sup>9</sup> *Γόρτυνι κορμύοντων | τῶν σὺν Ἐρταίῳ*<sup>10</sup> *τῷ Ἀμνάτῳ ὅκα τὸ τέταρτον μῆρος | Φευχαλῶ, vac. ἐν δὲ Κανδοῖ ἐπὶ τῶν σὺν Ὁφελάνδροι τῷ | Πόρτανορος* (ll. 1-4). The words *ὅκα τὸ τέταρτον* are not easy to interpret. Having rejected as incorrect an earlier interpretation, 'the fourth day of the month', Guarducci<sup>11</sup> adopted, with De Sanctis, the view that it must refer to the whole body of *kosmoi*, and then put forward the further suggestion that it might refer to the office of the *protokosmos* himself rather than the whole *kosmos*. If it refers to the Aethalians, the implication is that they had supplied the chief officials of the state for four successive years. If, however, Ertaios holds the office of *protokosmos* for the fourth time, it is more likely that he holds office after some lapse of time, in view of the regulation of the earlier period that three years must elapse before a *kosmos* can hold office again at Gortyna. Since it may be doubted whether it would have been possible for the Aethalians to hold power for four years and since, elsewhere,<sup>12</sup> the formula *ὅκα τὸ* applies to the

<sup>1</sup> Pol. 1272 a: οἱ δὲ κόσμοι ὀκτώ εἰσιν.

<sup>2</sup> 10.484. Ἀρχοντας δὲ ὀκτώ αἰροῦνται.

<sup>3</sup> Approved by Guarducci *ad loc.*

<sup>4</sup> IG 4.195 b and 260. Guarducci suggests that the Gortynian *hierorgos* is referred to in an inscription of Lebena, IG 1.XVII.2 a 5, b 4.

<sup>5</sup> *Ib.* 184.

<sup>6</sup> *Ib.* 185.

<sup>7</sup> IG 2.XVII.1.

<sup>8</sup> Guarducci *ad loc.*

<sup>9</sup> *Αἰθελεῖς* for *Αἰθαλεῖς* by assimilation. Bechtel GD 2.712.

<sup>10</sup> Cf. the same family name at IG 1.XXXI.7.

<sup>11</sup> Discussion and bibliography, *ad loc.*

<sup>12</sup> IG 4.250.3.

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official tenure of a particular man, the latter explanation is perhaps the more likely, especially in view of an attested Gortynian practice of indicating how many times a man has been *protokosmos*.<sup>1</sup>

In the next part of the decree, just as the Rhittenians were allowed their own laws and courts, the Kaudians are described as free, autonomous and possessing their own courts for local suits, on condition that they adhere to provisions laid down by Gortyna, and follow her lead in war and peace. For this reason, and because the whole context makes it clear that the Gortynians have imposed their will on Kaudos, and although the document is dated by the *kosmoi* of both cities, thus giving it a superficial resemblance to a treaty, Larsen, as we have seen, concluded that the Kaudian community was completely under the sway of Gortyna, but enjoyed local self-government. Hence his view that Kaudos 'certainly would have as good a claim to be called a polis as the perioecic communities of Sparta'. Guarducci,<sup>2</sup> although agreeing that the Gortynians could impose their ordinances upon other people who came under their sway, so that there is no need to regard the Kaudians as settlers or colonists from Gortyna, considers Larsen incorrect in regarding them as similar to the Spartan *perioikoi* because they could have their own laws and courts. But if serfs in Crete followed the laws of Minos, why should there not also have been relatively self-governing communities of perioecic status?

The conditions imposed by Gortyna are next stated. The Kaudians are to pay a tithe on all their products by land and sea, excluding flocks, vegetables and harbour-dues. The context<sup>3</sup> implies that the Gortynian citizens themselves paid a tithe; but whereas they enjoyed the benefits of the proceeds, the Kaudians were subject to an equal obligation but were deprived of benefits.

The origin of the tithe is to be sought in the *syssitia* system. Prior to the development of a larger and more authoritative state apparatus, the contributions to the *syssitia* must have been on an individual basis, the *hetaireioi* bringing what were originally mutually agreed amounts to their respective *syssitia*. Such a stage of the system is revealed by the Spartan evidence.<sup>4</sup> The more advanced system, now organized centrally by the state, won

<sup>1</sup> B. 197.7; IC 1.XVII (Lebena) 3.2. Cf. also IC 4.250.3. <sup>2</sup> *Ad loc.*

<sup>3</sup> The conditions are stated thus: *πῶς δὲ τοὺς ἐν Κανδοὶ φοροῦντας τῶν γενομένων πάντων ἐν τῷ χωρῷ ὁδεύσαν καθὼς οἱ Γορτύνιοι, πλὴν θραυτῶν καὶ τῶν λιμένων τῆς προσόδου καὶ λαχάνων ταῦτα δ' αὐτοὶ ἐχόντων* (lines 8-11).

<sup>4</sup> Arist. *Pol.* 1272 a; Dicaearch. *ap. Ath.* 141 c; Plu. *Lyc.* 12.



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Aristotle's approval, as compared with the Spartan. What Dosidas tells us about the system at Lyttos is revealing.<sup>1</sup> As the state apparatus developed, the subject-classes<sup>2</sup> were obliged to contribute to the now state-organized *syssitia*, as well as citizens.

The growing interest of the state in the system is attested at Gortyna as early as the first half of the fifth century.<sup>3</sup> The present decree not only shows that, at the beginning of the second century, the Gortynian citizens paid a tithe to the state; but also that, by a process of logical development, what had become, *vis-à-vis* the subjected classes of the community, a system of internal exploitation associated with the rise of the state, had similarly been applied externally to perioecic communities. What began as a contribution among equals became a tithe, and then the tithe became a tribute exacted from dependent cities. It was probably, in this case at least, a money tribute rather than a tribute in kind. For, since the tribute must have been extracted chiefly from agricultural production, the Gortynians can have had little need for such extra provisions in kind, since the Kaudians obviously did not share membership of Gortynian *syssitia*—and presumably had to maintain theirs from their own resources, in addition. Hence, the *syssitia* system of the state which was powerful enough to impose such conditions would have provided the basis for that state to accumulate financial reserves, in its secular and religious treasuries, as the system became adapted to the needs of the centralized state apparatus.

In addition to the tribute from their products, the Kaudians are to supply Gortyna with specified amounts of salt and juniper berries; and the responsibility for the transport of these commodities to Gortyna is also defined. Certain Gortynian officials<sup>4</sup> are mentioned as being responsible for the enforcement of these particular regulations. It is implied that the tribute<sup>5</sup> was dedicated to Pythian Apollo at Gortyna, recalling Aristotle's statement, in the passage referred to above, that a proportion was assigned to the gods.

<sup>1</sup> *Ap. Ath.* 143 a-b. Cf. p. 20.

<sup>2</sup> Cf. *Arist. Pol.* 1272 a; and p. 20.

<sup>3</sup> IG 4.77; Guarducci *ad loc.*

<sup>4</sup> *πρωθυπουργός* (see p. 115), and *ἄρχαι* (about whom nothing certain can be conjectured).

<sup>5</sup> And not a separate tithe: Guarducci *ad loc.* The relevant passage reads: *ὁ τι δὲ καὶ ἐσπέριον ἐς τῶν χρημάτων ἢ θαλάσσης ἡμερ τῶν Ἀπέλλωνι τῶ[ι Περ]ίωι τὰς δεκάδραν*, (lines 18-19).

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From an inscription of the early part of the century it would appear that there were nine *kosmoi* at the time.<sup>1</sup> The *kosmos hiarorgos* is second in the list. In another,<sup>2</sup> the presiding *kosmos* holds the office for the second time. In one of later date,<sup>3</sup> the *kosmoi* are made responsible for the sacrifice of a bull and a she-goat, and again the *hiarorgos* is listed next after the president. Six *kosmoi* are enumerated, a secretary of the *kosmoi* and a secretary of the *hiarorgos* also being named. With one possible exception<sup>4</sup> the latter official is not otherwise mentioned. The secretary of the *kosmoi* seems to have been the president's brother. From about the same time occurs another inscription,<sup>5</sup> with a list of seven *kosmoi*, and the name of the secretary is added.

*Kosmoi* are mentioned in forty inscriptions from other cities of Central Crete, often in a formal way which calls for no special comment.

In Arcadia, three *kosmoi* are enumerated in one inscription,<sup>6</sup> and also their secretary. The *protokosmos* Soteridas and his colleagues were made responsible for work done on a temple of Artemis, financed from public funds.

At Knossos there is some indication<sup>7</sup> that the youth recited their annual oath before the *kosmoi* on leaving the *agela*.

In a treaty between Lato and Olous,<sup>8</sup> an annual oath of the youth before the *kosmoi* of each city is mentioned, one city being represented at the ceremony in the other. A heavy penalty is imposed upon the *kosmoi* if they fail to perform certain formalities and to administer the oath, which ensures the continuity of the treaty. The *kosmoi* of one city are empowered to function as magistrates in the other city, wearing their official dress.

At Lato, it seems from one inscription<sup>9</sup> that two brothers may have been *kosmoi* at the same time. In another,<sup>10</sup> the names of five *kosmoi* are enumerated, followed by that of the secretary. In another,<sup>11</sup> there are seven, followed by the secretary, who seems to have been the brother of the seventh *kosmos*: which gives rise to the possibility that secretaries were normally chosen from the same

<sup>1</sup> IC 4.195 b; and Guarducci *ad loc.*

<sup>2</sup> *Ib.* 260 (end end-early 1st C. B.C.).

<sup>3</sup> *Ib.* 261.

<sup>4</sup> IC 1.V.5.

<sup>5</sup> *Ib.* 197.

<sup>6</sup> *Ib.* 409 (c. 1st C. B.C.).

<sup>7</sup> *Ib.* VIII.13.

<sup>8</sup> *Ib.* XVI.5. The verb *ἐνδομαίει* occurring here (line 21), means to leave the *agela* and so qualify as a *dromotai*. The oath-taking, as at Dreros, is connected with a festival, this time the Theodaisia. *Θεοδαισιος* was the name of a month at Lato.

<sup>9</sup> *Ib.* 23.

<sup>10</sup> *Ib.* 25.

<sup>11</sup> *Ib.* 26.



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clan as the *kosmoi*.<sup>1</sup> In other inscriptions, six(?) *kosmoi* and the secretary are listed;<sup>2</sup> seven, apparently including two brothers, and also the secretary;<sup>3</sup> seven, and the secretary;<sup>4</sup> and five(?).<sup>5</sup>

The name of the *protokosmos* in another Latonian inscription,<sup>6</sup> is the same as that mentioned in an inscription of Istron.<sup>7</sup> Another name also occurs in both. This gives rise to the possibility that, if Latonian magistrates are indeed mentioned in the Istron inscription, Istron may have been subject to Lato, a possibility supported by the fact that no Istronian coins have been found.

At Lebena, the port of Gortyna, a temple of Asklepios was restored on the motion of the Gortynian *protokosmos*.<sup>8</sup>

At Lyttos, it was still the practice for *kosmoi* to pay themselves, if they did not exact stipulated fines from others.<sup>9</sup>

At Malla, four(?) *kosmoi* are listed in an inscription<sup>10</sup> which informs us that the *kosmoi* of the city dined in the town-hall. The phrase used, *σίνηαις ἐν Πρυτανείῳ*, meaning public maintenance in the town-hall, is familiar in literary sources.<sup>11</sup> In another inscription from Malla,<sup>12</sup> there are at least five *kosmoi*.

In one inscription from Olous,<sup>13</sup> seven *kosmoi* are listed, followed by a secretary, who was probably the son of one of the *kosmoi*. In another from Olous,<sup>14</sup> four *kosmoi* are listed, and also a secretary.

Evidence for the *kosmoi* in the cities of West Crete is much less than for those of Central Crete, and usually of a formal kind, calling for no special comment. In an inscription from Aptera,<sup>15</sup> five (or more?) men are mentioned as responsible for the construction or restoration of a building, who were perhaps *kosmoi*. In another, from Polichna,<sup>16</sup> the list of names is complete enough to show that there were at least four *kosmoi* in authority there at the time. A dedication to Hermes Dromios was offered by a Polyrrhenian<sup>17</sup> on his retirement from the office of *kosmos*.

In Eastern Crete, *kosmoi* are mentioned in inscriptions from Hierapytna, Itanos and Oleros.

The cult of Zeus Diktaios in Eastern Crete has been the object of much scholarly attention in this century,<sup>18</sup> and the hymn to

<sup>1</sup> Guarducci, *ad loc.*, citing Xanthoudis.

<sup>2</sup> *Ib.* 31.

<sup>3</sup> *Ib.* 32.

<sup>4</sup> *Ib.* 33.

<sup>5</sup> *Ib.* 34.

<sup>6</sup> *Ib.* 29.

<sup>7</sup> *Ib.* XIV.2.

<sup>8</sup> *Ib.* XVII.6. (2nd/1st C. B.C.).

<sup>9</sup> *Ib.* XVIII.9 c.

<sup>10</sup> *Ib.* XIX.3 A.

<sup>11</sup> *Ibid.* line 38. Cf. *Ar. Rn.* 764; *Aul.* 33.14; *Pl. Ap.* 37 a.

<sup>12</sup> *Ib.* XIX.4.

<sup>13</sup> *Ib.* XXII.2. (Or perhaps from Lato: Guarducci *ad loc.*)

<sup>14</sup> *Ib.* 3. (c. 2nd C.).

<sup>15</sup> *IC* 2.III.21 (c. 2nd C.).

<sup>16</sup> *Ib.* XXII.1. (c. 2nd C.).

<sup>17</sup> *Ib.* XXIII.10. (c. 2nd C.).

<sup>18</sup> Cf. Guarducci *IC* 3 pp. 7-9.

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Zeus Diktaios<sup>1</sup> is the most important discovery made at the site of the cult. An inscription<sup>2</sup> found in 1907, a mile to the north-west of the site, commemorates the restoration by Hierapytna, round about the period 145-139 B.C., of some statues in the temple. It can be inferred that the site had come under the control of Hierapytna at a time of that city's supremacy in Eastern Crete, though the inhabitants of other neighbouring states, particularly of Praisos and Itanos, no doubt continued to frequent it. Apart from the six names which remain in the inscription, it is not possible to tell how many *kosmoi* are listed. Two of those mentioned were apparently brothers.

In a decree relating to the Magnesians, the *kosmoi* are shown as apparently presiding over the Assembly at Hierapytna.<sup>3</sup> They have the responsibility of publishing the decree in the temple of Athene Polias.

In a treaty between Hierapytna<sup>4</sup> and Priansos, the *kosmoi* of one city are given access to the town-hall and seats in the Assembly of the other city. In the treaty, it is stipulated that the envoys of each town are to be properly received by the *kosmoi* of the other, who are to provide them with necessities during their stay, or otherwise have to pay the envoys the sum of ten staters. The terms of the alliance are to be publicly recited at a certain festival every year by the *kosmoi*, and ten days' notice of the proceeding is to be given to the other city. If this provision is neglected, the Hierapytnian *kosmoi* pay a hundred staters to the Priansian state, and vice versa. Offences against the treaty by magistrates, as well as citizens, are to be heard by a common tribunal, arrangements for which are to be made by the *kosmoi*. The *kosmoi* are made responsible for the publication of the treaty in the temples of Athene Polias in both cities. Neglect of certain provisions by the

<sup>1</sup> Boanquet ABSA XV (1908-9) 339-36. Cf. IG 3.II.2, with bibliography.

<sup>2</sup> IG 3.II.1. The phrase 'Ἐπὶ τῷ Καμυρῖδῳ κοσμήοντι | τῶν σὺν Βοδάῳ τῷ Ἀμειβορῆτι (lines 1-2) associates the inscription with Hierapytna. (Cf. St. Byz. s.v. 'Ἱερὰ-πύτνια: πόλις Κρήτης, ἥ πρότερον Κόρβα, εἰτα Πόρνα, εἰτα Κάμυρος, εἰθ' ὄντως Ἱερὰπύτνια, τὸ ἐθνὸν Ἱεραιπύτνιος. On the relation between Hierapytna and Rhodes suggested by the name Κάμυρος see Guarducci ib. pp. 11 and 19. The formula used, with the name in the feminine singular, is roughly parallel to that of a Praisian inscription (IG 3.VI.8) where we find φυλάς Φαρκυρῖδος, and it is in marked contrast with the usual Cretan formula with names in the masculine plural—ἐπὶ τῶν δεινῶν κοσμήοντων. The patronymic of the *prothekmas*, Ἀμειβορῆς, is attested elsewhere as a name at Hierapytna (IG XII 5.340), though Βοδάος is first attested here.

<sup>3</sup> Ib. III.3 C.

<sup>4</sup> Ib. 4.



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*kosmoi* of one city renders them liable to a fine of fifty staters each to the offended city.

In another Hierapytnian inscription,<sup>1</sup> the *kosmoi* of the Dymanes, who held office at the time (two of whom may have been brothers), recorded their responsibility for building part of a temple. This inscription is important if only because it lists ten *kosmoi*, for once confirming the number given by Aristotle and Strabo. (But it can be inferred from an Itanian inscription<sup>2</sup> of about the third century that there were, nevertheless, sometimes as few as five *kosmoi* at Hierapytna.) Another fragment<sup>3</sup> possibly records further works for which the same *kosmoi* were responsible.

It may be that Oleros was subject to the much more powerful city of Hierapytna at an early period.<sup>4</sup> The evidence goes to show that such was the case certainly in the Hellenistic period. The Hierapytnians published treaties in the shrine of Athene Oleria and invoked her in their oaths,<sup>5</sup> and also apparently joined in her worship.<sup>6</sup> In an inscription of this period,<sup>7</sup> the Pamphylian *kosmoi*, who seem to have been given the responsibility of looking after repairs to the temple of Athene Oleria, must have been Hierapytnians. For three of the names mentioned also occur in the inscription from Hierapytna where ten *kosmoi* are listed. Here, however, only eight names occur.

There are probable references to Gortynian Councillors in this period, but no mention of the Council as such. For example, in the inscription relating to Kaudos, the *preigistos*<sup>8</sup> who is mentioned was perhaps a member of the Gortynian Council (if we naturally assume the existence of such a body), despatched to Kaudos to enforce the regulations imposed by Gortyna, rather than a Kaudian. It could be that *preigistos* here, as in a fifth-century inscription,<sup>9</sup> is an honorific title, not necessarily implying membership of the Council—compare the common meaning of ambassador. But in the first century A.D.<sup>10</sup> (after the existence of a *boule* at Gortyna has been attested by inscriptional evidence),<sup>11</sup> the *preigistos* Menander, son of Agathandros, honours Menophantos, who has discharged his duties as *preigistos*. This strengthens the possibility that it was a Councillor who was sent to Kaudos.

<sup>1</sup> *Id.* 9.

<sup>2</sup> *Id.* IV.6.

<sup>3</sup> *Id.* III.10.

<sup>4</sup> Kirsten in *RE* s.v. Oleros.

<sup>5</sup> *IC* 3.III.9 B; 5.

<sup>6</sup> Xenion *ap.* St. Byz. s.v. Ὀλερός. Cf. Eust. *ad* II 2.639.

<sup>7</sup> *IC* 3.V.1 (end 2nd-early 1st C.).

<sup>8</sup> See p. 140 and n. 4.

<sup>9</sup> *IC* 4.80.

<sup>10</sup> *Id.* 294.

<sup>11</sup> *Id.* 298 (c. 1st C. A.D.).

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Hence, on the strength of the internal evidence alone, there are grounds for supposing that the old tribal term *preigistas* was used to signify a member of the Gortynian Council, a body which can be assumed to have existed from an early period in Gortyna, as elsewhere in Crete.

The word *synedroi*, in another inscription of this period,<sup>1</sup> may well be equivalent to *bouleutai*.

In Central Crete, the Council is associated with the Assembly in an Arcadian decree.<sup>2</sup> The significance of the formula *ἔδοξε τῷ βουλῇ καὶ τῷ δάμῳ* (ll. 16-17), which has been adduced as characteristic of democracy,<sup>3</sup> will have to be further considered in connection with other relevant evidence.<sup>4</sup> An inscription from Olous<sup>5</sup> gives some reason for supposing that it was customary for *theoroi*, in this particular case *theoroi* from Rhodes, to report to the Council and Assembly of Olous.

In West Crete, a number of inscriptions from Aptera have the formula combining authority of the Council with the Assembly (*ἔδοξε τῷ βουλῇ καὶ τῷ δάμῳ*).<sup>6</sup> Evidence of the Council elsewhere is lacking.

In East Crete, apart from a single mention of the Council of Hierapytna in an inscription from Itanos,<sup>7</sup> further evidence is also lacking.

The Gortynian Assembly takes part in important decisions affecting arbitration, peace and war, and the fate of Gortynian citizens abroad. A much-discussed decree,<sup>8</sup> inscribed on a wall

<sup>1</sup> *ib.* 175. (Cf. p. 137 and n. 2.) Cf. Str. 10.484: καθίστασται δ' εἰς τοῦτο τὸ συνέδριον οἱ τῆς τῶν πόλεων ἀρχῆς ἡξιωμένοι καὶ τὰλλα δόκιμοι κρινόμενοι. There is little doubt, however, that Strabo uses *συνέδριον* in the most general way, and is not reporting a special Cretan terminology. It has been suggested (Guarducci *ad loc.*) that the use of *συνέδροι* for members of the Cretan Council may have caused the term to be applied to the Councillors of individual cities. But the reverse process is at least equally likely to have occurred. Since this inscription records a treaty between Gortyna and Knossos, the phrase *οἱ πόλεις ἡ οἱ συνέδροι* (line 4) applies, apparently, to both cities.

<sup>2</sup> IC 1.V.19 A (2nd/1st C.).

<sup>3</sup> Van Effenterre CMG 164.

<sup>4</sup> See pp. 148-9 and 180.

<sup>5</sup> IC 1.XXII.5.

<sup>6</sup> IC 2.III.3, 4 A? B, C; 5 A?, B; 6 C?; 8 C; 9; 10 A, B, C; 17?. Again adduced as characteristic of democratic institutions: Van Effenterre CMG 164. Cf. pp. 148-9 and 180.

<sup>7</sup> IC 3.IV.10.

<sup>8</sup> IC 4.176. For bibliography see Guarducci *ad loc.* The date is variously assigned to the end of the 3rd C. (see the discussion by Van der Mijnsbrugge CK 62-4) and early 2nd C. (Guarducci). Cf. the similarly phrased decree of Knossos, to the same effect (IC 1.VIII.9).



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in the western portico of the *agora* at Magnesia on the Maeander, gives the Gortynian reply to a Magnesian embassy which offered to arbitrate in a war between Gortyna and Knossos, and requested that permission should be given to certain Cretans to return to their homes. The Gortynians praise the Magnesians and their envoys, and reply that Ptolemy<sup>1</sup> is chosen by them as arbitrator. They cannot agree to the suggested proposals regarding the Cretans settled at Miletos.<sup>2</sup> What is noteworthy, in the present context, is the important part recorded as having been played by the Assembly in the deliberations.

The Assembly's importance in such matters at this time is again indicated in a treaty of the same period between Gortyna and Knossos, containing the terms of a peace settlement between the two cities.<sup>3</sup> There is a reference to an embassy sent by Ptolemy, and a further reference to his intervention. The strife between the two cities, as appears from this record, was due to the disputed possession of Apollonia, and a boundary dispute. As in the previous century, according to this inscription, three hundred members of the Assembly appear to have constituted a legal quorum.

The role of the Assembly in these formal relations between a foreign country and their own state is clear from two other inscriptions,<sup>4</sup> in the first of which the Gortynians decree their appreciation for the despatch of troops to their assistance by Ptolemy. It is also reasonable to infer that the Assembly was concerned in one decree of manumission.<sup>5</sup>

As for the other cities of Central Crete: in Arcadia, there is reason to believe that the secretary of the Assembly was given the responsibility of placing a decree,<sup>6</sup> honouring an embassy from Hierapytna, in a temple. This decree uses the formula *ἔδοξε ταῖς βουλῇ καὶ τῷ δήμῳ*. But two decrees of the Arcadians about the *ayylia* of Teos<sup>7</sup> begin with a different formula, and very commonly attested in Crete, naming the *kasmoi* and Assembly as responsible

<sup>1</sup> Epiphanes (Guarducci), Philopator (others).

<sup>2</sup> The emigration of Gortynians and Knossians is to be explained by the events of the Lyttian War (Van der Mijnsbrugge *ibid.*, citing Cardinali RF 35 (1907) I). A distinction is drawn between the Cretans living at Miletos and those who have become Milesian citizens, by Gortyna and Knossos.

<sup>3</sup> IC 4.18; b. Bibliography *ad loc.* On the date and the identity of Ptolemy see Guarducci *ad loc.*; Van der Mijnsbrugge CK 64; Van Effenterre CMG 266.

<sup>4</sup> *Ib.* 193 a, (199). On the date and the identity of Ptolemy see Guarducci *ad loc.*

<sup>5</sup> *Ib.* 232 (c. and G.).

<sup>6</sup> IC 1.V.19 A (2nd/1st. C.).

<sup>7</sup> *Ib.* 52, 53: "Ἐδοξε Ἀρκάδων τοῖς κάσμοις καὶ ταῖς πόλεσι.

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for the decrees. Nevertheless, the powers and action of the Assembly in an important sphere of foreign policy are clearly attested, and it is significant that the secretary of the Assembly should be charged with the publication of the first decree in the temple of Asklepios. This particular decree, however, is called a *dogma*, a word normally used elsewhere of the decree of a league, council or similar body, as distinct from the decree by popular vote, the *psephisma* (for example, of the Athenian *ekklesia*). It could be that the Arcadians constituted a league of village communities.<sup>1</sup>

At Biannos,<sup>2</sup> Knossos,<sup>3</sup> Malla,<sup>4</sup> Olous,<sup>5</sup> and Priansos,<sup>6</sup> the Assembly is concerned with foreign relations, and at Knossos<sup>7</sup> and Olous<sup>8</sup> with proxeny decrees. At Lebena<sup>9</sup> the Gortynian Assembly authorizes work on a temple. Of these inscriptions, the decree<sup>10</sup> of the city of Malla, honouring judges from Knossos and Lyttos, is of particular interest, not only for its revelation of the disorders which occurred in the state towards the end of the second century, but also for the unusual method of settling them which was the occasion of the decree.<sup>11</sup>

The city, torn by civil discord, appealed to the neighbouring cities of Knossos and Lyttos to send judges to establish order. Knossos sent one, and Lyttos two judges—one from Lyttos itself, and one perhaps from its port of Chersonesos. Success attended the zeal with which these foreign judges prosecuted their mission, and they put an end to the extreme confusion which is described as having existed, when the rights of property and rules of contract were no longer respected and upheld. In consequence, the judges are described as saviours, defenders and champions, and they are awarded the highest honours.

<sup>1</sup> The name *Agodæ* applies not so much to a settled township as to a group of villages in Cretan Arcadia inhabited by a people who had affinities with the ancient Arcadians of the Peloponnese. (The Arcadian inscriptions are from different places in the whole area.) That the constitutional forms of government, normally associated with the hegemony of a city, could also be characteristic of such a federation is consistent with the view of the evolution of that government from tribal forms. The use of *νομός* in these decrees might imply such an association, although it is true that the word is repeatedly used elsewhere to mean 'assembly', and the formula of V.19.A implies the existence of a formal assembly of the people.

<sup>2</sup> IC 1.VI.2.

<sup>3</sup> *ib.* VIII.9; 11.

<sup>4</sup> *ib.* XIX.2; 3 A.

<sup>5</sup> *ib.* XXII.5.

<sup>6</sup> *ib.* XXIV.1.

<sup>7</sup> *ib.* VIII.12; 14.

<sup>8</sup> *ib.* XXII.4 B.

<sup>9</sup> *ib.* XVII.6 (2nd/1st C.).

<sup>10</sup> *ib.* XIX.3 A.

<sup>11</sup> Haussoullier BCH IX (1885) 13; Halbherr *Mus. It.* 3 (1890) 628 no. 52; SGDI 5101; Michel 448; cf. Guarducci *ad loc.* Haussoullier assigned the first part of the decree (1-31) to Dreros.



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It is impossible to do more than guess the cause of this state of affairs. Unfortunately, such evidence as the decree provides is marred by a faulty text. We have to choose between: . . . τὰς γενομένας περιστάσεις περὶ τε τὴν πόλιν καὶ τὸ[ν] ἄ[λλον] δῆμον . . . (ll. 5-6), which seems preferable, and τ[ὸν] ἄμὸν δῆμον.<sup>1</sup> It seems certain that there was strife between 'the city' and those who did not belong to 'the city', but the interpretation of this distinction is difficult. Nor can the distinction itself be so definitely made if we prefer τ[ὸν] ἄμὸν to τὸ[ν] ἄ[λλον], since it is not easy to understand how the *damos* could then be conceived as wholly excluded from the *polis*.

The ἄλλος δῆμος could, however, connote a section of the community which did not fully participate in the legal privileges of the state.<sup>2</sup> Since property rights and contracts were challenged, a clash between the privileged citizen class and a section, or sections, of the *apetairoi* may have occurred. There is no suggestion that the intervention of the judges was accompanied by armed forces sent from their respective cities. The correct inference may well be that the foreign judges were able to settle the differences by arbitration, and that those who constituted the *polis* made concessions to the other party which enabled them to assume the conventional authority implied in the opening of the decree: ἔδοξε τοῖς κόσμοις καὶ τῇ πόλει συμφερόμενοις (ll. 4-5). The unusual feature here is the addition of συμφερόμενοις, which presumably implies that the decree was carried by vote, perhaps thus setting a formal seal upon the settlement of differences. A vote might also imply that the opposition party had now succeeded in gaining political representation in the Assembly and gave its support to the decree.

In West Crete, in an inscription from Allaria,<sup>3</sup> the Assembly is associated with the *kosmoi*, in the ordinary way, in honouring another city. But a number of decrees from Aptera<sup>4</sup> testify to the power of ratification of Council and Assembly, as opposed to the more normal combination of *kosmoi* and Assembly in matters of foreign relations, proxeny decrees and the like. The unusual preamble to these decrees ("Ἐδοξε τῇ βουλῇ καὶ τῷ δήμῳ"),

<sup>1</sup> The former is the reading of Guarducci, following Blass; the latter that of Hausoulhier, Halbherr.

<sup>2</sup> Guarducci *ad loc.* The suggestion that the opposition lay between the old city and a new foundation (Van Effenterre CMG 303 n. 7) seems less likely.

<sup>3</sup> IC 2.12 B.

<sup>4</sup> Cf. p. 145 n. 6.

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more democratic than aristocratic in form, has naturally aroused speculation. The suggestion<sup>1</sup> that Aptera was in an unusual situation occasioned by strong foreign influence has been challenged by Van Effenterre<sup>2</sup> on the ground that the same formula is now attested for the Arcadians, a rural community in the heart of the mountains, which could not have had many external contacts; and he would prefer to add the formula to the other indications which he finds of the development of democracy in Crete.

In anticipation of a fuller discussion of this whole topic, we may note here two points in relation to Aptera and Arcadia, which weaken this argument. The first is the existence of the usual formula in a decree from Aptera of the same period.<sup>3</sup> Since changed conditions in the period could have produced a change of formula, the second point is, however, more important. As Van Effenterre himself points out,<sup>4</sup> the city of Kydonia, enriched by its commerce in the fourth and third centuries, has, by the second century, supplanted the influence of Polyrhénia, Phalasarna and Aptera in Western Crete; and he cites Guarducci's insistence on the exhaustion of Apteraean currency as proof of its inferiority.<sup>5</sup> On the Greek mainland, the development of democracy implied economic advance, and to associate a development of democracy in Crete with a backward mountain community, and a city which had fallen into decline, and perhaps dependence, is hardly convincing without further substantial proofs drawn from these two places, and without recourse to general analogy.

The part played by the Assembly in the kind of matters which form the content of these decrees is quite normal. What is unusual is the role of the Council in conjunction with the Assembly. It may be that, instead of associating the formula with an advanced type of political organization such as democracy implies, we should rather imagine a less developed kind of typically Cretan aristocracy, more in keeping with the economic status of the two communities, and suppose that the role of the Council is to be explained by local, and certainly in the one case, more archaic conditions.

The Assembly of Axos was concerned with the Aetolian League in a matter affecting the status of a certain Epikles, whom the

<sup>1</sup> Muttebe ZVK 18-20.

<sup>2</sup> CMG 164.

<sup>3</sup> IC 2.III.2.

<sup>4</sup> CMG 265.

<sup>5</sup> *Ibid.* n. 3. Guarducci considers that this points to loss of independence before the Roman conquest, and suggests the inference that Aptera was attacked by Kydonia: see IC 2 p. 12.



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Axians certified to be a citizen, explaining further how he happened to be at Amphissa.<sup>1</sup>

In one inscription from Elyros,<sup>2</sup> the first part ratifies the appointment at Delphi as *proxenos* and *theoradokos* of a certain Kleophanes, and the second part relates to a Parian(?). Another inscription from Elyros<sup>3</sup> honours a man of Lappa. It is interesting that *kosmoi* and Assembly are mentioned in the normal way in the latter case, but only the Assembly in the former—(ἔδοξε τῇ πόλει). Again, the latter is dated by mention of the *protokosmos* in the preamble, but not the former. This contrast serves to emphasize the responsibility of the Assembly for proxeny decrees, which was sometimes apparently a responsibility which did not have to be shared with other authorities. For the Assembly of Lappa is also solely responsible for a number of proxeny decrees, without association with *kosmoi* or dating by reference to a *protokosmos*.<sup>4</sup> At Polyrhemia, however, the Assembly is associated with the *kosmoi* in making a Gortynian *proxenos* and *euergetes*.<sup>5</sup>

In East Crete, the Hierapytnian Assembly is associated with the *kosmoi* in relations with the Magnesian embassy,<sup>6</sup> and with the Italian *kosmoi* and Assembly.<sup>7</sup> The latter are concerned with the Gortynian *kosmoi* and Assembly.<sup>8</sup> The *kosmoi* of Priastos are, by treaty, allowed seats with the Hierapytnian *kosmoi* in the Assembly, as we have seen.<sup>9</sup> A letter from L. Calpurnius Piso to the Hierapytnians gives greetings to magistrates, Council and Assembly.<sup>10</sup>

### 6. THE SIXTH PERIOD (FIRST CENTURY)

Among the few relevant inscriptions from Gortyna is one which makes it clear that the president of the Cretan *koinon* in the Roman period was called *Kretarchas*.<sup>11</sup>

In Central Crete, four *kosmoi* appear to be enumerated in an inscription from Gheronesos.<sup>12</sup> Although this city was for a long time a port of Lyttos, the inscription shows that it had its own *kosmoi*.

In West Crete, an inscription from Axos mentions only two

<sup>1</sup> IC 2.V.19 B.

<sup>2</sup> *Ib.* XIII.1 A, B (c. 2nd. C.).

<sup>3</sup> *Ib.* 2 (c. 2nd. C.).

<sup>4</sup> *Ib.* XVI.4; 5 A, B; 6 A, B; 7 A, B; 8 A (c. 2nd C.). Cf. 7 C.

<sup>5</sup> *Ib.* XXIII.5 (c. 2nd C.).

<sup>6</sup> IC 3.III.3 C.

<sup>7</sup> *Ib.* IV.9.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ib.* III.4. Cf. p. 143.

<sup>10</sup> *Ib.* IV.10.

<sup>11</sup> IC 4.250. The word *δερχός* seems to signify the president of the *kosmoi* in this inscription, and it is remarkable that the person concerned should hold the office for the tenth time.

<sup>12</sup> IC 1.VII.5 (c. 1st C.).

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*kosmoi*, though the conventional formula followed by the name of the *protokosmos* is used.<sup>1</sup>

There is no evidence of the *kosmoi* from East Crete.

The Council of Gortyna is first definitely attested in an inscription of the period, the formula used apparently being typical of the Roman era.<sup>2</sup> In other cities of Central Crete no reference to the Council can with certainty be assigned to this period.

In West Crete, one inscription, consisting of the remains of a record of the accounts of the temple of Diktynna, belongs to the end of the century. There are references to two copies of the proceedings relating to these accounts, one kept in the temple, the other by the Council of Polyrhēnia. It is clear from the evidence that the temple of Diktynna was, at the time, under the jurisdiction of Polyrhēnia.<sup>3</sup>

There is no evidence of the Council from East Crete.

There is only a possible mention of the Assembly at Gortyna, where it may have been joined with the Council in some formality.<sup>4</sup> The phrase *ἡ βουλὴ καὶ ὁ δῆμος*, possibly occurring here, appears to be the equivalent of *senatus populusque* and due to Roman influence.<sup>5</sup>

Elsewhere in Central Crete there is only one inscription which mentions the Assembly, and this, from Chersonesos, the port of Lyttos, is important.<sup>6</sup> It is in the form of a dedication to Asklepios, which was perhaps made at a monthly meeting of the Assembly. If so, monthly meetings may have been usual at Chersonesos, and perhaps in other cities. The Assembly met monthly in Sparta, at the time of the new or full moon.<sup>7</sup> (In other places too, including Rhodes and Iasos, the Assembly met monthly on certain days.)<sup>8</sup> It is interesting that tradition connected both Chersonesos<sup>9</sup> and Lyttos<sup>10</sup> with Sparta.

In West and East Crete, evidence for the Assembly is lacking.

<sup>1</sup> IC 2.V.35 (c. 1st C.): γραφάντω | δ' ἐς στάλαν λιθίναν [οἱ κόσμοι οἱ | σὺν Τηλεμ-  
νόστῳ τῷ [Κόδαντος] (lines 22-4). The other name follows.

<sup>2</sup> IC 4.298 (c. 1st C.): - - τῆς κρατίστης Γορτυνίων βουλῆς καὶ τοῦ λαμπροτάτου  
δήμου.

<sup>3</sup> IC 2.XI.3. Cf. Str. 10.479: Πολυρρήνιοι, παρ' οἷς ἐστὶ τὸ τῆς Δικτύννης ἱερὸν.  
Guarducci *ib.* p. 129.

<sup>4</sup> IC 4.298. Cf. n. 2 above.

<sup>5</sup> Cf. *ib.* 297, 300 A (2nd C. A.D.).

<sup>6</sup> IC 1.VII.5. Cf. p. 150 n. 12. The inscription begins: Καθυσ[μένη χα]ρτοσίῳ  
μηρίαις (lines 1-2). For the restoration and meaning see Guarducci *ad loc.*

<sup>7</sup> Sch. *ad* Th. 1.67; cf. Plu. *Lyc.* 6; Michell S 145; Buxolt GS I.43, 2.692.

<sup>8</sup> Guarducci *ad loc.*; cf. Buxolt GS I.447.

<sup>9</sup> Plu. *De mal. viii.* 247 d.

<sup>10</sup> Lyttos was said to be a colony of Sparta: Arist. *Pol.* 1271 b; Plb. 4.54.6; Str.  
10.481.



## XV

### THE POLITICAL SYSTEM (2) LITERARY EVIDENCE

THE purpose of this chapter is to review some of the important information presented by the literary evidence,<sup>1</sup> so far as it chiefly concerns the constitutional history of Crete. This evidence, certain aspects of which have been discussed in some detail in the earlier chapters, is, unfortunately, not extensive. Nor does it call for our attention, in the present context, before the fourth century. The evidence of mythology, literature and history, relating to earlier times, seems sufficient to refute the hypothesis of a sudden discovery from the mainland, in the fourth century, of a backward and semi-barbarous community; presents us with evidence of the early sentiment of Cretan unity, manifested for example in the refusal to participate in the struggle against Xerxes; and may well be inadequate to support the view that Crete was torn by civil conflicts from as early as the sixth century.<sup>2</sup> But firm contemporary conclusions about the ordering of Cretan social life and constitutional practices do not emerge until the fourth century, and we must therefore begin with Plato, pass on to consider the evidence of Ephoros and Aristotle, and conclude with Polybios.

Although Plato does not write as a historian, and his picture of Crete is certainly idealized, we ought to treat his evidence as seriously as it was regarded in antiquity by Polybios and Strabo.<sup>3</sup> The correspondence between some of the institutions described in the *Laws* and those which we know from other sources to have existed in Crete at various times is close enough to suggest that Plato was drawing upon accurate sources of information about contemporary Crete. Hence, we are entitled, not merely to use

<sup>1</sup> Cf. the sources quoted by Guarducci in the historical prefaces to individual cities in IG 1-4.

<sup>2</sup> Van Effenterre CMG 19-44.

<sup>3</sup> Plb. 6.45.1-2; Str. 10.477. On the validity of the Platonic evidence cf. Van Effenterre *ib.* Ch. 2.

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the *Laws* to suggest relevant analogies in support of other sources, epigraphic or literary, but also to infer that similar institutions were flourishing in the first decades of the fourth century.

Among such institutions we may include the *syssitia*;<sup>1</sup> the allocation of a special quarter to metics and artisans;<sup>2</sup> tribal courts;<sup>3</sup> the obligation to marry;<sup>4</sup> the survival of matriarchal traditions, with a more cognate system of relationship than the Athenian;<sup>5</sup> and it is of interest that Plato should refer directly to Cretan custom in advocating not only temperance,<sup>6</sup> but a system of food supply and distribution of agricultural produce approximating to that which is declared to be legal in Crete.<sup>7</sup>

Though critical of some customs,<sup>8</sup> Plato's general enthusiasm for the Cretan way of life is clearly expressed. A Cretan type of constitution approaches his own ideal.<sup>9</sup> He approves of the rule which forbids the youth to examine which laws are right and which are wrong, and enjoins them to declare unanimously that all are properly established by divine enactment and to refuse to listen to anyone who says otherwise.<sup>10</sup> It is supposed that Klinias has never seen a city ruled by a tyrant, and the Cretan agrees, expressing his fervent desire never to see such a sight.<sup>11</sup> (The desire must be interpreted as due to aristocratic fear of change, rather than democratic love of freedom.)

Other aspects worthy of mention here are the following. The Knossians take precedence over most of the Cretan cities,<sup>12</sup> but the Gortynians are the most esteemed.<sup>13</sup> Cretan customs are adapted for war, the civic organization being more like an army than a city, with young people herded together like colts at grass.<sup>14</sup> Though warfare between cities may be endemic, no mention is made of internal strife or of specially difficult relations between the free and unfree.<sup>15</sup> For Crete is not referred to when Plato discusses

<sup>1</sup> Cf. Arist. *Pol.* 1272 a with Pl. *Lg.* 842 b; Str. 10.480 with Pl. *ib.* 625 d-e.

<sup>2</sup> Cf. IC 4 (Gortyna) 58, 78 with Pl. *ib.* 848 a.

<sup>3</sup> Cf. the 'judge of the *hetairia*' in IC 4.42 B with Pl. *ib.* 768 c, 915 e, 920 d.

<sup>4</sup> Cf. Str. 10.480 with Pl. *ib.* 721 a, 774 a.

<sup>5</sup> Cf. Van Effenterre CMG 64.

<sup>6</sup> Pl. *ib.* 639 d, 674 a.

<sup>7</sup> *ib.* 847 e.

<sup>8</sup> E.g. homosexuality *ib.* 836 c.

<sup>9</sup> *ib.* 712 e.

<sup>10</sup> *ib.* 634 d-e.

<sup>11</sup> *ib.* 711 a; cf. 712 c.

<sup>12</sup> *ib.* 752 e. The statement may imply federal unions—Knossos heading the principal one—early in the 4th C., of the kind found in the Hellenistic period. Cf. Van Effenterre CMG 55 and n. 1; also my argument in Ch. XXI.

<sup>13</sup> *ib.* 708 a.

<sup>14</sup> *ib.* 625 e; cf. 666 e, where ἀλλ' οἷον ἀθρόους πᾶλους ἐν ἀγέλῃ τευομένους γαργάδας τοὺς νέους κλέτρησθαι seems to be a conscious pun on Cretan custom.

<sup>15</sup> Cf. Van Effenterre CMG 74.



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either the places where the *sysitia* system has inflamed civil strife,<sup>1</sup> or what he describes as the most vexed problem of Greece, the Helot-system of Sparta, and analogous forms of serfdom.<sup>2</sup> In the first of these passages, although it is conceded that *sysitia* and *gymnasia* are at present beneficial to the states, the institutions are criticized not only on moral grounds, but also as a source of danger in time of civil discord, in view of revolutions which have occurred elsewhere as a result of the intensive military training of the youth. The practical significance of this warning will be discussed in the light of developments in the following century, in the next chapter.

Hence, although it would be unwise and unprofitable to insist upon a too exclusively Cretan origin for more than a few institutions described in the *Laws*, it is likely that the general impression created by that work had much in common with contemporary Cretan social and political practices with which Plato was acquainted and which he admired.

It seems that there may well have existed, from the first half of the fourth century, sources of information about Crete,<sup>3</sup> concentrating attention on certain common characteristics of Spartan and Cretan conditions, which were available to Ephoros and Aristotle, who cannot themselves be described as entirely independent witnesses.<sup>4</sup> But, although their evidence has much in common, it differs from the Platonic (so far as that can be described as historical) sufficiently to enable us to qualify it as representing a generally later stage of development, roughly applicable to the middle decades of the century.

What he regarded as the most important provisions described by Ephoros are available to us in the report of Strabo.<sup>5</sup> The law-giver, according to Ephoros, seems to assume that freedom is the greatest good for the Cretan cities, a freedom which alone ensures that property shall belong exclusively to those who have acquired it; since, in a condition of slavery, it belongs to the rulers and not to the ruled. This conception of freedom and slavery in terms of the sacrosanct privileges of property echoes the sentiments of the Cretan Klinias in the *Laws* about tyranny, regarded as a threat to aristocratic rights.

<sup>1</sup> *Lg.* 636 b.

<sup>2</sup> *Ib.* 776 c-d.

<sup>3</sup> Schwarz in *RE* 1.3, Ephoros; Kirsten *DIK* 64; Van Effenterre *CMG* 79.

<sup>4</sup> Cf. Van Effenterre *ib.* 78.

<sup>5</sup> 10.480-4.

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But those who have such freedom, warns Ephoros, must guard it. The removal of dissension arising from greed and luxury is an assurance of harmony. For when all live in temperance and frugality, neither envy nor insolence nor hatred can arise against those who are like them. This is why the lawgiver ordered the boys to attend the *agelai* and the men the *andreia*; so that the poorer, fed at public expense, might be on equal terms with the well-to-do. Moreover, so that courage should prevail over cowardice, they are encouraged from boyhood to practise hard living, archery and the war-dance, to take to military attire, to value arms above all things.

Ephoros objects to the opinion of some writers that most Cretan institutions are Spartan, declaring the truth to be that they were invented by the Cretans and perfected by the Spartans. But, owing to the troubles which fell upon the cities, the Cretans neglected military affairs, particularly the Knossians. So that some of the old institutions survive to a greater extent among the Lyttians, Gortynians and others of the smaller states than among the Knossians.

Certain Spartan institutions are called 'Cretan' by the Spartans themselves, and some of their offices have the same names and are administered in the same way as in Crete; for example, that of the Senators (*Gerontes*), and that of the Knights (*Hippeis*). The presentation of the name of the first office as Cretan must have been due to confusion with Spartan terminology. The Knights are not otherwise known to us, but Ephoros emphasizes that they actually had horses,<sup>1</sup> whereas the Spartan Knights did not; so that we can assume that their 'office' in Crete was older, since they possess the true meaning of the term.<sup>2</sup> Since Aristotle and others do not mention it, it is possible that the 'office' of the Knights, known to Ephoros, later became moribund. Its civic purpose is not clear, but the Knights themselves have been associated with those youths who were abducted by their lovers, in the way described by Ephoros, who had the position of greatest honour in dances and races, were allowed to dress in better style than the rest, and who, even when they grew to manhood, wore a distinctive dress to identify them as *kleinoi*.<sup>3</sup> The existence of such

<sup>1</sup> Cf. Pl. *Lg.* 834 b-c.

<sup>2</sup> So did the Spartans, linguistically, if not in fact. But just as some like spades to be spades, so Ephoros looked for horses for his Knights.

<sup>3</sup> Jeanmaire *CG* 453. Cf. *Str.* 10.483.



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an aristocratic and militarist sect would be quite in keeping with early Cretan custom.

The ephors have the same functions as the Cretan *kosmoi*, though differently named, says Ephoros. He later adds that the Cretans choose ten archons, by which he means *kosmoi*. In matters of the greatest import they use as counsellors what they term Senators (*Gerontes*); and those who have been considered worthy to belong to the office of the *kosmoi*, and are also thought to be worthy in other respects, are appointed to the Council.

Strabo concludes his summary of the evidence of Ephoros by stating his belief that the constitution of the Cretans is worth describing because of its peculiarity and its reputation. Not many of the institutions survive, he adds, for the administration is effected for the most part by edicts of the Romans, just as in other provinces.

The value of what has survived of the account of Ephoros is marred by its haphazard arrangement and often superficial analogies. But the information contained in Aristotle's *Politics* is the product of profound historical and philosophical reflection on the great variety of forms of ancient constitutions, and it presents us with authoritative evidence, of a higher order of precision and regard for essentials, presented within a general framework of scientific analysis.

The Second Book of the *Politics* is concerned with an examination of certain constitutions which actually exist or have been theoretically proposed by reputable thinkers. What to Aristotle seemed the natural starting-point of the inquiry involves the initial proposition that there are three possible systems of property. The citizens must either all own everything in common, or nothing in common, or some things must be common property, others not. Since the state is a community, to own nothing in common is impossible. Is it then better for a well-conducted city to share in everything that can be shared, or to share some things in common and others not? The posing of this question leads to the criticism of Platonic theory.

In the course of this criticism it is observed that a community of property was introduced in Sparta and Crete by the system of *syssitia*.<sup>1</sup> Later, as we have seen,<sup>2</sup> the Spartan regulations for the *syssitia* are adversely compared with the Cretan, on the grounds

<sup>1</sup> Pol. 1264 a 1.

<sup>2</sup> P. 21; Arist. Pol. 1271 a 29.

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that their revenues, as in Crete, ought to come from public funds.

The Platonic system is criticized for being incomplete, since no definite regulations are laid down for classes other than the Guardians, who are very much a minority. If the Farmers are to have the same communism as the Guardians, how will they differ from them? What advantage will they gain by acknowledging their rule? What motive would induce the Farmers to submit to the rule of the Guardians, unless these adopt some clever device like the Cretans? For the Cretans have given to the unfree (τοῖς δοῦλοις used in a general sense) the same rights as they have themselves, except that they are forbidden gymnastic exercises and the possession of arms.<sup>1</sup>

When he turns his attention to the constitutions of Sparta and Crete, Aristotle prefaces his account with some general remarks. It is generally agreed, he states, that a characteristic of good government is leisure from the necessary cares of life, though it is not easy to find out how this leisure is to be provided. The serfs of Thessaly (*penesteia*) repeatedly rose against the Thessalians, in the same way as the Helots of Sparta, who lie in wait like an enemy watching for the misfortunes of the Spartans. But nothing of the kind has ever yet occurred in Crete; the reason being, perhaps, that neighbouring cities, even when at war with one another, never ally themselves with rebellious elements, because this would not be in their own interests, since they themselves also possess a serf class. Whereas the Spartans were surrounded by hostile neighbours, Argives, Messenians and Arcadians. Likewise, serf-risings against the Thessalians had their origin in the wars of the Thessalians with their neighbours, Achaeans, Perraiboi and Magnesians. Apart from other weaknesses, it is irksome to have to look after a serf class and establish a satisfactory system of relations. If control is relaxed, serfs become insolent and claim equality of rights with their masters, and if their lives are made toilsome, they hate and conspire against them. It is clear that those whose serf-system works out in this way do not find the best means of dealing with the problem.<sup>2</sup>

The discussion of the Cretan constitution begins in a way that recalls the opinion of Ephoros about the relationship between Sparta and Crete. Although the Cretan form of constitution

<sup>1</sup> Pol. 1264 a 12-23.

<sup>2</sup> *Ib.* 1269 a 29-1269 b 12.



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approximates to the Spartan, says Aristotle, and is in a few particulars not inferior, it is, for the most part, less polished. The Spartan constitution seems, and is said,<sup>1</sup> to have been copied in most respects from the Cretan: it is generally true that the old is less perfected than the new. Aristotle then reports the tradition that Spartan institutions are not Dorian but pre-Dorian, established in Crete originally by Minos, received from the previous inhabitants by the Spartan colony of Lyttos, and thence passed to Lykourgos when he visited Crete. Which also accounts for the fact that the laws of Minos are still in force among the subject-population of Crete.<sup>2</sup>

The resemblances between Sparta and Crete are then enumerated.<sup>3</sup> In Sparta the land is farmed by Helots, and in Crete by the serfs. Both have *sysitia*, and the proof that these originated in Crete is that the old Spartan name for them was not *pheiditia* but *andrea*, as in Crete. The same holds true of the form of constitution. For the ephors have the same power as the officials called *kosmoi* in Crete, except that there are five ephors and ten *kosmoi*. The Senators (*Gerontes*) at Sparta are the equivalent of the Senators whom the Cretans call the Council (*Boule*). This correlation of the Cretan *Boule* with the Spartan *Gerontes* is an indication of the survival of its more archaic and aristocratic function. For elsewhere,<sup>4</sup> Aristotle emphasizes that *Boule* signifies the Council in a democratic constitution.

With the analogy of Sparta still in mind, Aristotle then goes on to say that monarchy existed in earlier times, but was then abolished by the Cretans; so that the *kosmoi* have the leadership in war. All take part in the Assembly, though it has no powers except to join in ratifying the decisions of Senators and *kosmoi*.<sup>5</sup>

After explaining why he prefers the Cretan arrangements for the *sysitia* rather than the Spartan, Aristotle confirms Plato's view of the temperate habits of the Cretans, and also comments on that segregation of the women which we have already noted. This segregation is explained as a measure of birth-control, and a cause of homosexuality.<sup>6</sup>

<sup>1</sup> Cf. the Spartan tradition recorded by Hdt. 1.63.

<sup>2</sup> Pol. 1271 b 20-33.

<sup>3</sup> Ib. 1271 b 41-1272 a 10.

<sup>4</sup> Ib. 1299 b 32; 1322 b 18; 1323 a 9. We shall have occasion later (p. 180) to return to this topic, and to recall Aristotle's statement that the magistracy which convenes the sovereign Assembly is the sovereign power in the state: ib. 1322 b 15.

<sup>5</sup> Ib. 1272 a 9-13.

<sup>6</sup> Ib. 1272 a 14-25.

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The regulations for the *kosmoi*, however, he considers to be worse than those concerning the ephors. There is the same flaw in both cases, in so far as the offices are filled by chance persons. But such benefits as the Spartan constitution derives from the office are absent in Crete. For in Sparta, since appointments to the ephorate are made from the general citizen body, their share in the highest office gives the people an interest in the maintenance of the constitution. Whereas in Crete, the *kosmoi* are not chosen from the whole people, but from certain clans.<sup>1</sup>

The Senators are chosen from those who have held the office of *kosmos*. (The Aristotelian evidence does not justify the view that those who have held this office *automatically* became life-members of the Council.)<sup>2</sup> The Cretan arrangement here is subject to the same criticism as the Spartan. Freedom from accountability and life-tenure give them a more exalted position than they merit; and their ability to exercise their office at their own discretion, and not according to written rules, is a source of danger.<sup>3</sup>

That the people tolerate their exclusion is not in itself a proof of a good constitution. The fact is that the *kosmoi*, unlike the ephors, do not stand to profit from office, since they live in an island removed from people who might corrupt them. A curious remedy, and one which is more dynastic than constitutional, is adopted against the defect of the undue restriction of the office. For *kosmoi* are often overthrown by a conspiracy of their own colleagues or of private citizens. It is also possible for the *kosmoi* to resign during their term of office. However, it would be better for these safeguards to operate through the law rather than through the caprice of men, which is an unsafe kind of rule. The sorriest expedient is the abrogation of the office of the *kosmoi*, which is often effected by powerful elements to escape justice. This goes to show that the system has a constitutional element, though the fact of the matter is that it is not so much constitutional as dynastic. It is a common practice to form divisions among the people and among associates, thus putting an end to lawful government, causing factions and fighting among themselves. Such conditions amount to a temporary collapse of the state, a dissolution of the ties of civil society. A city where this kind of thing can happen is in peril, when those who have the desire, also have the power to attack her. But, as has been said before, its

<sup>1</sup> Ib. 1272 a 28-35.

<sup>2</sup> Glotz CG 101.

<sup>3</sup> Pol. 1272 a 35-9.



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geographical position is the salvation of Crete, distance producing the same results as alien-acts. Hence, in Crete, the serf population is undisturbed, while the Helots often revolt. For the Cretans have no foreign dominions; and also the island has but lately been invaded by warfare from abroad, which has made clear the weakness of the existing laws.<sup>1</sup>

The exact meaning of this reference to warfare from abroad is disputed, though it is clear that Aristotle regarded it as an event of prime importance. He may have had in mind the affair of 343 B.C. when the Phocian Phalaikos with his mercenaries crossed into Crete and took service with the Knossians against the Lyttians;<sup>2</sup> or the war in the time of Agis in 333 B.C.<sup>3</sup> It is, however, not the exact date of the event, but the acknowledgment of a state of crisis in the Cretan system which it brought about, that we are concerned with here.

Apart from the main survey of the Second Book, there are two other references to Crete in the *Politics*, one of them in a context of general importance. The first occurs in Book Seven, where Aristotle states that, although in most cities the laws may be said to be generally in a state of confusion, nevertheless, if they anywhere aim at some definite object, they aim at power; as in Sparta and Crete, where the system of education and the greater part of the laws are generally framed with a view to war.<sup>4</sup>

In the same book,<sup>5</sup> after noting that different constitutions arise from a different allotment of functions, democracies being states in which all the people share in all the functions, and oligarchies where the contrary practice prevails, he goes on to consider what must apply in the best kind of constitution. In such a state the citizens must not be artisans or tradesmen, since such a life is ignoble and inimical to virtue. Nor must they be farmers, since leisure is necessary for the development of virtue and the performance of political duties. Since the state also contains a military group and a group which concerns itself with matters of policy and justice, these two groups being in a special sense part of the state, the question is raised whether they are to be distin-

<sup>1</sup> *ib.* 1272 a 40-1272 b 23.

<sup>2</sup> D.S. 16.62.3. Cf. Hoock K 3.61; Parke GMS 142; Kirsten DIK 60; Süssmühl and Hicks ed. *Arist. Pol. ad loc.*; Van Effenterre CMG 82; Guarducci IC 1 p. 47, where the date is given as 346.

<sup>3</sup> D.S. 17.48.1. Cf. von Armin *Wien. Sitzb.* 200 Bd. 1 Abh. (1924) 112; Van Effenterre, *ibid.* n. 2.

<sup>4</sup> *Pol.* 1324 b 5-10.

<sup>5</sup> 1328 b 32-1330 a 32.

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guished or whether both functions are to be assigned to the same persons. The danger of separation is that those who carry arms determine the fate of the constitution. Consequently, both functions of government are to be entrusted to the same persons, not, however, at the same time, but in the order of nature, which has given young men strength and old men wisdom. Moreover, these same persons should be the property-owners, since they are the citizens, and citizens must be in easy circumstances. But artisans have no share in the state, nor any class not concerned with the craft of virtue, and the farmers will be slaves or serfs of an alien race. Priestly offices are likewise to be restricted to the military and governing class of citizens when old age has compelled them to relinquish their other functions. Farmers, craftsmen, and the labouring classes generally, are necessary to the existence of states, but the parts of the state are the military and governing bodies, the distinction between these being in one sense permanent, in another sense temporary.

The analogy with Crete, so far implicit, is then made quite explicit by reference to the history of the caste system and some remarks on land tenure. Aristotle points out that it is no original or recent discovery of political philosophy that the state should be divided into classes, and that the fighting men should be distinct from the farmers. For such a system has continued to the present time in Egypt and in Crete; established in Egypt, according to tradition, by the legislation of Sesostris, and in Crete by that of Minos. *Sysitia* are likewise an ancient institution, in Crete being as old as the rule of Minos, in Italy much older.

After referring to these actual historical parallels, Aristotle again emphasizes that the land ought to belong to those who possess arms and share in the government; and that those who work the land should be a class distinct from them. A well-organized state ought also to have *sysitia*, their cost being defrayed from part of the revenues of the public lands.

The ideal system would be for those who work the land to be slaves, not all of the same kin and not men of spirit; for they will thus be adapted for their work and unlikely to make a revolution. The next best arrangement is that they should be alien serfs of a similar disposition. Those in private employment should be counted among the private possessions of the owners of the estates, and those working on the common land as common property.



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When Aristotle observed that the geographical position of Crete was responsible for its stability, but that recent invasion of warfare from abroad had exposed its weaknesses, he was defining the end of an epoch in Cretan affairs. After this time Crete was no longer geographically on the fringe, but near the storm-centre of historical development, and was drawn increasingly into contact with overseas powers in Europe, Asia and Africa. The needs of trade and diplomacy, and of Cretan reserves of mercenary troops and Cretan piratical activities, amid the general tension and upheaval of the Hellenistic period—all contributed to forge relations between the cities of Crete and the Greek mainland, Pergamon, Egypt, Rhodes and Rome, and other places.

Some measure of the changes wrought in the affairs of Crete by these developments can be gathered from the comments of the foremost of the Hellenistic writers whose references to Crete have survived. The constitutional effects of the changed situation will have to be assessed in the comparison of the inscriptional and literary evidence in the next chapter. For the present it will be as well to bear in mind, not so much the tendency to change, as the tenacity of the Cretan institutions despite the pressure of change; and to remind ourselves that the degree of this tenacity was such that the Cretans were the last of the Greek peoples to succumb to the Roman invader. The similar conservative characteristics which excited the admiration of writers of the fourth century are a source of irritation to the Romanophile Polybios, writing in the second century. The political system prevalent in Crete, no less than the moral character of the Cretans themselves, alike evoke his censorious and ironic displeasure.

A few only of the references in Polybios to Crete and Cretans need occupy our immediate attention. Of these the most important is his discussion of the Cretan constitutional system.<sup>1</sup> He begins by expressing his surprise that the most learned of the ancient writers—Ephoros, Xenophon, Kallisthenes and Plato—could say, firstly, that Crete was one and the same as Sparta, and secondly, declare it to be worthy of praise. In the opinion of Polybios neither judgment is true and he leaves us to decide from his observations whether he is right or not.

He goes on to notice the differences with Sparta, of which the distinctive features are said to be, firstly, the laws of land tenure,

<sup>1</sup> *Pib.* 6.45.1–47.6.

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according to which no citizen may own more than another, but all must have an equal share of the public land; secondly, there is the attitude to money-making, money being considered to be of no value among the Spartans, so that jealous rivalry due to the possession of more or less is completely absent; thirdly, the fact that, of the officials by whom and with whom all administration of public affairs is conducted, the kings hold hereditary office and the *Gerontes* hold a life tenure.

The exact opposite, in all these respects, prevails among the Cretans. Their laws allow them to possess as much land as they can possibly acquire. Money is held in such esteem among them that its acquisition is looked upon not merely as a necessity, but as highly reputable. In fact, a sordid desire for gain and a lust for wealth are so natural among them that the Cretans are the only human beings by whom no gain of any sort is considered to be a disgrace. Also, they have a system of annual magistracies of a democratic character. Hence the frequent difficulty of understanding why these authors have proclaimed the natural affinity of systems so opposed in character.

Such writers are inconsistent in praising the lawgiver who, by abolishing civil discord and factions along with the appetite for wealth, made it possible for the Spartans to be outstanding among the Greeks in the management of their internal policies and in their unity, and yet persisted in asserting the similarity of the Spartan and Cretan systems of government, discounting what was apparent to them: namely, that the Cretans are incessantly involved in public and private factions, in murders and intestine wars. Ephoros, in particular, is taken to task for using the same phrases in his explanation of the two systems, to such effect that, apart from their names, it would not be possible to distinguish them.

To what extent the strictures of Polybios as compared with the praises of his predecessors are due to differences in subjective attitude, to what extent to objective changes in the Cretan systems over a period of two centuries, constitutes an important problem. What surprises the modern reader is the historian's concern to emphasize the truth of his account as compared with those of earlier writers, as a matter of abstract principle, as if the facts of the Cretan historical situation were not subject to that general cycle of constitutional change which he has previously described.<sup>1</sup>

<sup>1</sup> *Ib.* 9.10.



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That Polybios should also define as democratic an official system which had impressed his predecessors as being characteristic of a close oligarchy is a central factor in this whole problem, to which we must return in the next chapter.

Three more references which typify the Polybian view must suffice. The first is also of a general character and occurs with reference to the events of 182-1 B.C. 'In Crete', he writes,<sup>1</sup> 'there was a beginning of momentous events, if indeed it is possible to speak of a beginning of events in Crete. For, as a result of the unbroken succession of their intestine wars and the excess of their cruelty to each other, beginning and end amount to the same thing in Crete, and what might otherwise be regarded as a paradoxical utterance is there an unremitting reality.'

The second is chosen partly because it will serve to confirm Aristotle's recognition of the consequences of lack of unity between the two elements of a ruling class, the young and the old, the military and the deliberative—as it also confirms the earlier warning of Plato; partly because of its relevance to the discussion in the next chapter.

Writing of the period 221-219 B.C., Polybios informs us<sup>2</sup> that the people of Lyttos had met with a fatal disaster, the general situation in Crete having been as follows. The Knossians, in alliance with the Gortynians, had subjected the whole of Crete, with the exception of the city of Lyttos. Because Lyttos alone refused obedience, they embarked upon war against her, with the purpose of destroying the city wholesale, to serve as an example of dread to the rest of Crete. At first all the Cretans participated in the war against Lyttos. But, says Polybios, jealousy arose from some trifling motive, as is habitually the case with the Cretans, and a group of cities abandoned the alliance and took the side of Lyttos.

Meantime, there was civil war in Gortyna. The elder citizens adopted the cause of Knossos, the younger that of Lyttos. The Knossians were taken by surprise at the turn of events among their allies, but obtained the assistance of a force of Aetolians. The immediate consequence was that the elder Gortynians seized the citadel, allowed the Knossians and Aetolians to enter, exiled or killed the younger men and handed over the city to the Knossians.

Describing how Lyttos, the colony of Sparta, the most ancient

<sup>1</sup> 24.3.1.

<sup>2</sup> 4.33.3-35.6.

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city of Crete and nurse of her best men, was then burnt and ruined and her women and children carried away to Knossos, Polybios goes on to tell how the intervention of King Philip was obtained, and the consequences of the intervention; and in particular how the Gortynian exiles seized the harbour of Phaistos, boldly continued to hold that of Gortyna itself, and from these positions prosecuted war against those in the city.

The third reference, according to Polybios himself,<sup>1</sup> both typifies and transcends what has often happened in Crete. In 171 B.C., the Kydonians committed a treacherous outrage against the Apolloniats, with whom they were not only friendly, but had an interchange of civil rights, sharing with them generally all the rights observed by men, bound to this effect by a sworn treaty in the temple of Idaean Zeus. In violation of their treaty obligations, they seized the city, slaughtered the men, despoiled their possessions, appropriated and divided among themselves the women, the children, the city, the land.

<sup>1</sup> 28.14.1-4.



## XVI

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#### (3) COMPARISON OF EPIGRAPHIC AND LITERARY EVIDENCE

THE inscriptions and the literary evidence about Crete are thus mutually supporting, in two senses. Firstly, inscriptional evidence, though not considerable, exists for a period of about three centuries before any precise literary information begins; and it so happens that this literary information is most weighty when inscriptional evidence is lacking, that is, in the fourth century. Secondly, whilst the inscriptional evidence, from its nature, impresses us with the details of constitutional practice in so many places at specific periods, the literary evidence, especially that of the philosophers, seeks for general principles about the organization of Cretan political and social life. The inscriptions record the events of Cretan history from within, from the formal standpoint of the governing classes of many cities, each with its individual traditions, which composed the Crete that the literary evidence presents to us as a whole, from the standpoint of outside observers who appreciated its distinct qualities but were also seeking for analogies with actual institutions on the mainland, and for factual data to support their political theory.

We must also bear in mind that the literary evidence is, in its own way, as much a product of its time as any inscription, and we must therefore avoid the mistake of Polybios, and of some modern scholars, of supposing that historical judgments have to be unalterable to be true. Even Plato acknowledged certain weaknesses in the Cretan system; Ephoros, and Aristotle more particularly, indicate that these weaknesses were becoming critical. Aristotle was generalizing about Crete on the basis of traditional and contemporary evidence, but he gives a dramatic hint of his opinion that the history of Crete might in future follow a different

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course. The inscriptions of the following century show evidence of changes such as might have been expected to follow from the changed general environment, which manifested itself in Crete, according to Aristotle, in the form of an invasion of warfare from abroad. The weaknesses recognized by the writers of the fourth century were thus exposed and intensified by the change in external conditions.

If we respect the relative validity of general statement, there is little, in the Aristotelian evidence at least, that causes us to doubt its authenticity. The most suspect statement of fact is that there were ten *kosmoi*. Apart from a single inscription from Hierapytna, and perhaps one from Gortyna, of the second century, the available inscriptional evidence contradicts this statement. However, the relevant inscriptions do not necessarily prove that Aristotle's information, even on this point, is untrustworthy, since they belong to the Hellenistic period: and Ephoros agrees with Aristotle. So that there are no actual facts to disprove the possibility that there were ten *kosmoi* in the fourth century; and that composition of the magistracy later changed, partly perhaps as a result of declining population.<sup>1</sup> My own view is that it would be surprising if there were ever ten *kosmoi* in all the cities of Crete at any one time, but it is not impossible. It could be that the common sources of information available to Ephoros and Aristotle on this topic were either inaccurate or were only based upon the practice in a number of cities, or, less likely perhaps, that ten represented a maximum at the time.

Did Aristotle underestimate the powers of the Assembly? Again, there are no inscriptional records of the time to prove that he did. But there is ample evidence after his time to suggest that his assessment of its powers was, in many cities, no longer valid. The important early inscription from Dreros, the oldest complete law known to us from Crete, causes us equally to doubt its validity for earlier times, though this was not the view of the scholars responsible for its publication.<sup>2</sup> This inscription was noticed earlier,<sup>3</sup> and we must now discuss it in more detail.

It begins with the formula:  $(T)\acute{\alpha}\delta' \epsilon\phi\alpha\delta\epsilon \pi\acute{o}\lambda\iota\varsigma$ ; that is to say, it is a decree of the Drerian citizen body meeting in the Assembly. The formula has its analogies elsewhere. For example, the decree

<sup>1</sup> Van Effenterre CMG 100 n. 1. But cf. my argument about population in Ch. XXI.

<sup>2</sup> Demargne-Van Effenterre in BCH LXI (1937) 333-48.

<sup>3</sup> Pp. 106-7.



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of the Gortynian Assembly of the third century, ordering the use of bronze money, has a similar formula, which caused Halbherr to question Aristotle's definition of the powers of the Assembly.<sup>1</sup> It is true that we are not told who was initially responsible for the motion, but we cannot automatically assume that it was the Council or the *kosmoi*, or both. On the contrary, the context seems to suggest that the Assembly was wholly responsible for the decree which, following its preamble, ordains that a man cannot be a *kosmos* again until ten years have elapsed; and, if he should act as a *kosmos* in violation of the law, he must pay a double fine, in all cases where he has pronounced a judgment, be accursed and deprived of his civic rights for his lifetime, and all his actions as a *kosmos* shall be rendered null and void. If the purpose of the decree was to limit the power of the *kosmoi* in such a way as to prevent any kind of personal absolutism, such as a tyranny, the narrowly-based Assembly of land-owning aristocrats is even more likely to have been responsible for the motion than the Council, itself composed of ex-*kosmoi*.

The last part of the inscription reads as follows: *ὁμόται δὲ | κόσμος | κοῖ δάμιοι | κοῖ | ἑαται οἱ τὰς πόλ[ι]ς. παρ.* ('Those who swear are the *kosmoi*, the *damioi* and the "twenty" of the city.') Three sets of officials are thus bound by oath to observe the law promulgated by the Assembly. The composition and functions of the last two bodies mentioned are not known. It has been suggested that the *damioi* were the equivalent of the Gortynian *titai*, and the 'twenty' were treasurers; or, alternatively, that the *damioi* were financial officials and the 'twenty' a commission of control appointed by the Council to supervise the *kosmoi*.<sup>2</sup> But could not *polis* bear the same meaning here as in the preamble? In that case the 'twenty' would have been appointed by the Assembly. The *damioi* might well have been equivalent to the Gortynian *titai*, but since the latter were senior officials granted supervisory control over the *kosmoi*, the possibility is that the *damioi* were appointed by the Council. The advantage of this interpretation is that the directive then binds, directly or indirectly, all three elements of the constitution, *kosmoi*, Council and Assembly. The interpretation, moreover, not only involves the hypothesis that the Assembly once possessed more than formal powers of ratification; it also assumes that there was sufficient justification for the Assembly to initiate

<sup>1</sup> See p. 132.

<sup>2</sup> Demargne-Van Effenterre *ib.* 347.

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a law curtailing the power of the *kosmoi* and to appoint a commission from its members to ensure that the sworn obligation to observe it was carried out.

It is not at all unlikely that the Cretan Assembly should have been reluctant to abandon its ancient tribal powers, and that the general pre-eminence of the *kosmoi* was not assured without a struggle. If so, Aristotle's view of its minor role in the fourth century can be taken as evidence that the *kosmoi* had emerged successful from the struggle. But the position changed again later. Even if there had not been other factors at work, it is not beyond possibility that the increasing demands of diplomacy and war would have occasioned a revival of the Assembly in certain characteristic spheres, with which the later inscriptional evidence shows it to have been more than passively concerned. These demands were of such a nature that they vitally concerned the whole citizen body, deliberative and military, old and young.

On this view, then, the Assembly and the Council of the early period would have been relatively close to their tribal origins, the one conscious of its tribal democratic rights, the other consisting of the Elders who composed the tribal Council. It is significant, in this connection, that the Cretan *boule* is equated by Aristotle with the Spartan Elders, especially as he normally uses *boule* to mean the Council of a democratic state. The comparison is confirmed by the probable Cretan use of the old tribal term *preigistos* for a Councillor. On the other hand, the new constitutional element, the typical body which had replaced the tribal monarchy, was, in the new conditions, the *kosmos*. Since the old does not easily give way to the new, the possibility of struggle between the different elements of the state is likely. The consolidation of the power of the *kosmoi* would then have taken place as part of the general process of ordering the state structure of aristocratic society which is implied by their name.

What especially impressed Plato and Aristotle in the aristocratic ordering of Cretan social relations was the organization of the serf system, unaccompanied by revolts. Although Aristotle ideally preferred for agricultural work a docile labour force of slaves, without ties of kinship to unite them, his second best preference approximates to the Cretan system, where agricultural work was done by alien serfs, who, unlike the Helots, caused no trouble. The reality behind Aristotle's ideal was the actual



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organization of slave labour in industry, which was not applied to agriculture until the Roman era, since the seasonal nature of agricultural work for a long time obstructed the economic exploitation of slave labour on the land. Meantime, the Cretan landowners, who had surpassed the Spartans in their solution of what was already in Plato's time the most vexed problem of Greece, could serve as a model for a political theory which aimed at ensuring the leisure of a governing class freed from the vexations of daily toil, on the basis of a system of land-tenure which guaranteed a regular food-supply.

That Plato and Aristotle had found a good model is proved by the fact that there is no evidence of any kind to suggest that the serfs of Crete revolted. This important fact needs to be remembered in any assessment of the changes that occurred in Crete after the middle of the fourth century. Changes there were, economic, political, social, military and diplomatic, which have to be considered. But the immediate question to which an answer has to be attempted is whether the effect of all these changes was to produce a total change in the Cretan systems. Is it possible to recognize a development from aristocratic to democratic institutions? Van Effenterre concluded that we must recognize such a development, and references have already been repeatedly made to some of the evidence which he draws upon to substantiate his thesis. The time has come to review his argument<sup>1</sup> in detail.

This argument begins with the observation that the Crete of Plato and Ephoros preserved its markedly aristocratic nature, as did that of Aristotle, despite the signs of disintegration which he perceived. The social hierarchy was such that all but a small minority of the population were excluded from the ownership of lands and military pursuits. A strict educational system for the youth prepared the way for entry into the *hetaireiai*, with their communal life and communal meals. Political power was reserved for the privileged by birth; and not merely for oligarchical families and clans, but for the more senior of their representatives, the cities being under the jurisdiction of what is aptly described as *une g rentocratie de caste*.

In contrast with this fourth century picture, indications of a transformation appeared in the Hellenistic period which warrant the assumption of a powerful democratic movement. Especially

<sup>1</sup> CMG 161-72.

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do changes occur in the political vocabulary. The comments of Polybios on the character of the Cretan constitution have been confirmed by modern writers, though the extent and the timing of the evolution that has to be acknowledged between the time of Plato and the time of Polybios have long remained uncertain. Thus, Semenov<sup>1</sup> preferred a date in the fourth century for what Hoeck<sup>2</sup> had dated nearer 200 B.C.

After a critical survey of the contribution of Muttelsee to the subject, Van Effenterre refers to his own view, that the history of the Cretan cities was dominated by the antagonism between Knossos and Gortyna, and raises the question whether the cause of this opposition is to be found in their different political outlook, so that the key to the internal politics of Crete would have to be sought in the domestic politics of the various cities. The possibility is alleged to be brought to the fore by that most serious of Cretan conflicts, the Lyttian war, which occasioned a mortal struggle between the two parties involved in a struggle for power at Gortyna, which can hardly be described as exclusively motivated by external politics.

The evidence for democratization is then reviewed. The legitimacy of the conception, it is claimed, depends on the historical testimony of Polybios that the Cretans had a system of annual magistrates of a democratic character. There is no reason to doubt a statement whose soundness is confirmed by the epigraphical records.

The appearance of the word *demokratia* is noted, as in the treaties between the Rhodian republic and Hierapytna or Olous, or in the agreements between Gortyna, Knossos and Magnesia on the Maeander, from which it can be concluded that, towards the end of the third century, the constitutions of such varied cities as Knossos, Olous, Hierapytna and Gortyna presented a democratic character as described by Polybios. Somewhat later, the Samian Epikles did not hesitate to argue before the Cretan *koinon* that it was the duty of the Cretans to favour the democratic regime at Samos in the same spirit which they manifested in their own homelands.

In other documents, though the word democracy does not appear, the reality exists. The names of certain institutions, the powers of certain official bodies, could only be conceived within

<sup>1</sup> AIPC 39.

<sup>2</sup> K 3.103.



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a democratic system. Decrees of Aptera or Arcadia, towards the end of the second century, have the formula so characteristic of democracy: *ἔδοξε τῇ βουλῇ καὶ τῷ δήμῳ*.

A more general tendency is for supreme power, especially in the reception of ambassadors and the firm control of foreign policy, to belong to the Assembly of the people, called *ekklesia*, *polis*, *plethos*, *koinon*, *demos*, or even by the old name of *agora*. The evidence here is spread over the whole Hellenistic period, from about 260 B.C. and from all parts of Crete: from Kydonia, Lappa, Eleutherna and Axos in the west; from Knossos, Tylisos, Rhaukos and Gortyna in Central Crete; from Praisos, Itanos, Lato and Hierapytna in the east. Also in the east, at the very beginning of the third century, such expressions as *κορία ἐκκλησία* confirm the sovereign power of the Assembly which is one of the characteristic features of the democratic regime.

Nor do inscriptions prove the survival of specifically aristocratic institutions like the life-magistracies, the *gerousia* of Aristotle or the Knights of Ephoros; so that study of the epigraphical record confirms the definition given by Polybios and establishes the general existence of the democratic regime from the beginning of the third century. The practice of committing decrees and treaties to writing on stone perhaps coincided with the widespread development of democracy. The paucity of epigraphic evidence for the fourth century cannot be attributed to chance or to the calm of Cretan history in the period; but rather to the fact that such a method of publication appeared to be futile or even dangerous to the oligarchies who still held the monopoly of power.

Once the reality of the evolution of the Cretan cities towards democracy is appreciated on the basis of the testimony of Polybios, verified by the inscriptions, it would be desirable, continues Van Effenterre, to establish with precision the stages of development, in time or in space. Unfortunately, as he admits, the task is beset with many difficulties. For the Cretan documents are relatively scarce and widely dispersed. The danger of taking accident for rule is considerable; and our range of observation is restricted by the difficulty of deciding the degree to which diplomatic formulas correspond to actual changes in institutions or are merely due to carelessness and the uncertainties of vocabulary.

Moreover, the Cretans always exhibited a conservative spirit

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throughout their public life, as historians have frequently observed, and as is exemplified by the law of Lyttos in the second or third century of our era, which authorizes a distribution among the *starai* in accordance with ancestral custom. Because of this loyalty to tradition, it is likely that the Gretans preserved the form of a number of aristocratic institutions whilst infusing them with a democratic content. Thus, the *boule*, mentioned in the late third or early second century oath of the Drerians as being responsible for the supervision and judgment of the *kosmoi*, recalls the *bola*, apparently possessed of similar functions, in the fifth century agreement between Argos, Knossos and Tylisos. The *bola* of the latter inscription is undoubtedly the aristocratic Council formed of *ex-kosmoi* described by Aristotle; so that the possibility of the survival of an old form which preserved traces of functions which had survived from the aristocratic period can be admitted.<sup>1</sup> Nevertheless, according to Van Effenterre, the oath of the Drerians was of a democratic, if not demagogic, character.<sup>2</sup>

Finally, it must be remembered that democracy in the Hellenistic period was not a pure form of democracy, and that the term is now less opposed to aristocracy or oligarchy than to a variety of forms of personal power encouraged by monarchs in the Greek cities. New economic conditions and new ideas were responsible for the widespread application of a moderate, cautious and somewhat degenerate form of democracy in the true sense, its basis often being timocratic or sometimes pedagogical, in the sense that the ephebic education was a necessary preliminary for entry into the civic body. The democracy which made headway in Crete was probably of this kind. For social organization suffered little modification, the enrolment of young people in the *agelai* being everywhere attested by inscriptions throughout the Hellenistic period, which implies at least a partial survival of the system of *hetaireiai*, definitely attested in some cities such as Dreros, Lyttos and Malla. Also, the existence of subordinate classes, of more or less distinct forms of servitude, appears to have been prolonged in certain places such as Eleutherna, Lato, Gortyna, almost up to the end of the second century. With such a conservative social system, it could not have been possible for Crete to adopt a particularly advanced political system. Since we so often meet with the formula *ἔδοξε τοῖς κόσμοις καὶ τῇ πόλει* in decrees, the

<sup>1</sup> Cf. Mitthelee ZVK 21-3.

<sup>2</sup> Cf. BCH LXI (1937) 327-32.



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implication here is that power was merely shared between the citizen body and the supreme magistrates.

Is it possible, despite these reservations, to define the stages of democratic development? Such is the question which Van Effenterre then proceeds to examine. Before we follow the course of his further argument, it must be observed that the reservations he himself makes, though serious, are not so serious as others which he overlooks.

Of these, the most important arises from his failure to define the nature of the pure form of democracy to which he refers. His neglect here is in marked contrast with his careful summary of the economic basis of Cretan aristocracy and its political form, and with his awareness of the special and tenuous nature of Greek democracy in the Hellenistic period. The consequence of this neglect is that he is tempted to prove too much by concentrating on the formalities of political change. A clear conception of aristocracy and of a degenerate Hellenistic democracy is contrasted with a true democracy that is never defined. The best example of the true democracy that Van Effenterre presumably had in mind is the fifth century Athenian type, and it is instructive to compare its specific characteristics as the norm towards which an ancient society could progress, if we are to hold out any possibility of an advance from Cretan aristocracy to democracy.

The development of the Athenian state—and in particular, of the tyranny and the democracy, from the middle of the sixth to the middle of the fifth century—had allowed Athenian society to sunder its connections with gentile society and to enter upon a career of private property. Money and trade formed the means whereby this new career was opened, but those who controlled the means and lived by money and trade had to enlist the aid of numerous hands, and to release the whole energy of the citizen masses of society; and not only of the urban and manufacturing artisans, but alike of the peasants in the countryside, the same peasants whose economic and social status had earlier approximated, in essentials, to that of the Cretan serfs, with the all-important exception that they did not constitute an alien, conquered race and were therefore vociferous in their demands for change, conscious of their grievances as kinsmen of the more privileged. Landed wealth had been restrictive, aristocratic. Moneyed wealth, to achieve its hegemony, had to be, at least in the first

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instance, unrestrictive, democratic. The new form of wealth had to rally the decisive majority of the population under the banner of private ownership and allow the citizen labourer to become the private owner of his own means of labour set in action by himself, the peasant of the land which he cultivated, the artisan of his tools. The soil had been parcelled out and the scattering of the other means of production gathered increasing momentum, resulting in ever fresh divisions of labour, the development of new and ever more varied social types.

Hence, the Athenian peasantry played an indispensable part in the development of democracy. A peasant class of small-holders became politically united against the landed aristocracy. Under the democracy, the peasantry as a class in the countryside became the bulwark of a new economic order based on the appropriation of moneyed wealth in the city. The democratic reorganization of Kleisthenes gave political expression to the economic domination of the country by the city, since the urban population was able to muster a voting power out of proportion to its numbers.<sup>1</sup> But the form of free citizen farmers' property, with the farmers managing their own affairs, as the prevalent normal form, constituted the agrarian economic foundation of Athenian democracy in its early and best period, before slave labour began to seize on the production process and before the development of a maritime empire caused democracy at home to be bolstered by external exploitation.

This free ownership of the self-employed farmer was the most adequate form of landed property for small-scale production; and the individual ownership of the land was as necessary for the development of this type of production as the individual ownership of the instruments of production was for the unfettered development of handicrafts. Ownership was the pre-requisite of personal freedom; and it was also a stage in the development of agriculture: so that, although as time went on, the ruling commercial system attacked the land,<sup>2</sup> and the peasantry came to form a consuming class dependent on the import market, in so far as the greater proportion of corn was imported,<sup>3</sup> the owners of the smaller holdings were able to produce the most marketable products because the cultivation of vines, olives and figs predominated. Moreover, the requirements of building, mining and

<sup>1</sup> Thomson AA 207.

<sup>2</sup> Glots AGW 250.

<sup>3</sup> *Ib.* 25B.



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shipbuilding led to a ruthless deforestation which formed a further obstacle to working fields and pastures on a large scale, but supplied a further incentive, if any were needed, to the intense cultivation of small and medium holdings.<sup>1</sup> The growth of the city itself provided a sufficient stimulus for the development of market-gardening and the cultivation of fruits and vegetables.<sup>2</sup> Such intense methods of cultivation could result, in the period of general internal economic expansion stimulated by the democratic system, in higher profits and an increase in the value of landed property. The Athenian peasantry undoubtedly benefited in a high degree, both economically and politically, from the democratic system.

The new tribal system of Kleisthenes also had the effect of abolishing the archaic tribal system which the aristocracy had perpetuated and modified in its exclusive interests. The powers of the phratry, which the aristocrats had maintained as a closed body in order to restrict the citizenship, and of the no less restrictive hereditary clan, were broken. The new system restored, at least temporarily, to the wider citizen body the forms of its ancient tribal rights in a wholly new content.<sup>3</sup>

There is no evidence to suggest that the agriculture and the peasantry of Crete approached such a transformation. The original cultivators of the soil had been long ago transformed into vassals, their rulers into owners of the soil and the cultivators themselves. The surplus produced by the serfs was directly extracted from them by the owners of all instruments of production, to which the land and the producers themselves belonged. No advance towards democracy, in the true sense of the term as it can be applied to conditions in antiquity, can be envisaged which does not depend upon evidence to prove that there was at least a tendency for the Cretan serfs to change from instruments of production into owners of instruments of production, in a general way, and not subject to such a remote possibility of chance as is envisaged by the Gortynian Code, a possibility which can represent no more than the survival among the serf class of the old community in land.

This all-important aspect of the problem is ignored by Van Effenterre. Throughout the whole period of our survey, in the absence of evidence to the contrary, we must assume that the

<sup>1</sup> *Ib.* 257. <sup>2</sup> *Ib.* 259; Ehrenberg PA 77; Michell EAG 51. <sup>3</sup> Thomson AA 208.

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economy of Crete has to continue to be classified among those more backward forms of landed proprietorship over small-scale production, and remained as a predominantly agricultural economy, drawing its major sustenance from the soil, with no advanced forms of industry or commerce such as were to be found in democratic Athens, and where the land continued to be owned by a relatively few families, who preserved their old clan organization in modified ways suited to their interests; and where small-scale ownership never had the chance to develop.<sup>1</sup> We have no evidence to suggest that a movement of serf emancipation developed in Crete such as developed in Sparta in the Hellenistic period.

Money and trade undoubtedly played an increasing part in the Cretan economy, in ways that remain to be considered. For the present we need only observe that money and trade did not generally cause the Cretan cities to dominate Cretan economy, that its basic agricultural character remained, and significantly, as we shall see, that the major new social types, as compared with those of democratic Athens, are the mercenaries and the pirates—and the latter can hardly be described as new.

The second reservation that must be added concerns the nature of the evidence of Polybios on which Van Effenterre places such reliance. This evidence does not yield its proper sense if it is treated absolutely, removed from its immediate context, and not considered in relation to the general Polybian conception of democracy. It will be recalled that Polybios finds Crete wholly different from Sparta in three respects: in its land laws, in its view of money-making, and in its official system. In his explanation of the third of these major differences, he states that, of the Spartan officials, the kings hold a hereditary office and the members of the Council have a life-tenure: *οἱ μὲν βασιλεῖς ἀίδιον ἔχουσι τὴν ἀρχήν, οἱ δὲ προσαγορευόμενοι γέροντες διὰ βίον*.<sup>2</sup> But, as for the Cretans: *καὶ μὴν τὰ κατὰ τὰς ἀρχὰς ἐπέτεια παρ' αὐτοῖς ἐστὶ καὶ δημοκρατικὴν ἔχει διάθεσιν*.<sup>3</sup> Van Effenterre translates:

<sup>1</sup> Jardé CAG 1.109. Cf. Rostovtzeff SEHHW 2.1185: 'In continental Greece serf economy, though very little known, certainly existed in some places. It lost its importance in Sparta after the time of Nabis, but it may have retained comparative vitality in Thessaly and in Crete.'

<sup>2</sup> 6.45.5.

<sup>3</sup> 6.46.4. Cf. the argument here with Larsen in SPDMR 2.797: 'According to Polybios and Strabo the Acheans passed directly from monarchy to democracy. In this case, of course, "democracy" is used in the sense, common in Polybios and later writers, according to which the word can be applied to any republican government.'



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'(Les Crétois) ont chez eux un système de magistratures annuelles et de caractère démocratique'. Exception cannot be taken to the translation in a literal sense. But the systematic exposition of his case, reinforced by the repetition of the word *arche*, shows that Polybios is at pains to compare, primarily, the hereditary kingship of Sparta with the annual tenure of office of the chief Cretan officials, i.e. the *kosmoi*. (His statement may also imply that he considered that there was an annual tenure of office by the Cretan Councillors, as compared with the life-tenure of the Spartans, but the general nature of his statement and our lack of information from other sources about the tenure of this office at any time make it undesirable to press the point.) By virtue of this comparison Polybios naturally concludes that the Cretan system was 'of a democratic character', even though the context makes it clear that he was writing principally about the most typically aristocratic of Cretan magistrates. For his statement is relative, contradictory but exact, in the general sense that a system of annual magistrates is 'democratic' in comparison with a hereditary kingship, if we take the trouble to analyse his terminology.

In his earlier account of the forms of states,<sup>1</sup> Polybios objects to the traditional classification of constitutions into three kinds, called kingship, aristocracy and democracy. He prefers to recognize six kinds, the three usual ones, and the three which are naturally allied to them and are their baser forms, namely, monarchy or tyranny, oligarchy and mob-rule. True democracy does not exist where the whole crowd of citizens is free to do whatever they wish; but when, in a community where it is traditional and customary to reverence the gods, honour parents, respect elders and obey the laws, the will of the greater number prevails, that is what is to be called democracy. The citizens make the state a democracy when they assume responsibility for the conduct of affairs. For Polybios the best kind of constitution is one which combines all the three varieties of kingship, aristocracy and democracy. Hence his admiration for Sparta, and above all for Rome.

If one looked at the power of the consuls, the Roman constitution seemed completely monarchical; if at the power of the Senate, it seemed aristocratic; if at the power of the people, it seemed clearly to be a democracy. Thus, in view of his habit of

<sup>1</sup> 6.3.5-18.8.

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separating the various elements which formed a constitution into self-contained and abstract principles, it was quite consistent of Polybios to find a democratic quality in Crete, such as he found in Sparta and Rome in their different ways. But that does not entitle us to assume that democracy existed in Crete, any more than it did in Sparta and Rome, if we view the systems as a whole. But since Polybios understood as democratic a system where the will of the greater number prevails, as it did even in Rome, if the counterbalancing powers of the other constitutional elements were temporarily ignored, what we are entitled to assume is that the general citizen body enjoyed wider powers than under a strict aristocracy of the older Cretan type. Here the evidence of Polybios coincides with the evidence of the Hellenistic inscriptions, with their convincing proof of the large powers enjoyed by the Assembly. The loose use of the term by Polybios is also quite consistent with that more general and enfeebled conception of democracy in the Hellenistic period to which Van Effenterre himself draws attention. We should therefore be warned against reading too much of a meaning into the term when we meet it in other contemporary sources.

The validity of this general warning is reinforced by a careful examination of the instances quoted by Van Effenterre of the occurrence of the word *demokratia*. The treaty between Rhodes and Hierapytna<sup>1</sup> is in the form ratified by the Rhodian people: *ἔδοξε τῷ δάμῳ* (I. 1); and the obligations imposed by the treaty upon the Hierapytnians are listed first, including the promise to assist the Rhodians if they are attacked or their laws and democratic government interfered with: *ἢ τὰν καθεστὰς νόμων δημοκρατίαν καταλύῃ* (II. 13-14). Exactly the same formula is used when the Rhodians later undertake to assist the Hierapytnians in like circumstances. The possibility is then that it was a conventional formula carelessly repeated, intended to specify the Hierapytnian state and not its form of government. For a Hierapytnian decree of the same date has the formula: *ἔδοξεν—τοῖς κόσμοις—καὶ τῷ πόλει*.<sup>2</sup> The treaty between Olous and Rhodes, even as restored by Van Effenterre on the analogy of the Hierapytnian treaty, has the same conjectural formula only with reference to Rhodes, and is therefore inadmissible as evidence.<sup>3</sup>

In the agreements between Gortyna,<sup>4</sup> Knossos,<sup>5</sup> and Magnesia

<sup>1</sup> IC 3.III.3 A.    <sup>2</sup> Ib. 3 C.    <sup>3</sup> CMG 226-30.    <sup>4</sup> IC 4.176.    <sup>5</sup> IC 1.VIII.9.



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on the Macander, the word occurs in such mutilated contexts that it is impossible to conclude dogmatically that exiled Cretans who wished to return to their country are guaranteed the free enjoyment of their civic rights in a democratic regime, in accordance with ancestral custom;<sup>2</sup> especially as the decrees of the Gortynians and the Knossians which follow the mutilated preambles both apparently have the formula: *ἴδοξε τοῖς κόσμοις καὶ τῷ πόλει*. In fact, even taking full account of all the reservations made about the evidence of Polybios, it is impossible to entertain Van Effenterre's conclusion that, at the end of the third century, the constitutions of cities as various as Knossos, Olous, Hierapytna and Gortyna presented that democratic character of which Polybios writes. As for the plea of the Samian Epikles<sup>3</sup> for the Cretans to show the same zeal in the cause of Samian democracy as they would in the cause of their own cities, it is more legitimate to infer that the speaker was at pains to counter possible prejudice arising from a difference in institutions, than that he was invoking an obligation arising from their similarity.

Van Effenterre is on much firmer ground when he discusses the evidence from the names and powers of certain institutions, though he is at fault in concluding that these could only be conceived within a democratic system. Quite a different conclusion, for example, can be drawn from the decrees of Aptera and Arcadia towards the end of the second century, cited by Van Effenterre in this connection, as has been indicated.<sup>4</sup> But the increased powers of the Assembly, repeatedly attested by the inscriptions, cannot be disputed. However, since no economic basis for democracy appears to have existed, the only conclusion we can draw from the available evidence is that, in the course of the Hellenistic period, there developed a much wider distribution of political power between the magistrates and the main body of citizens, who, however, must have remained *relatively* few. (Even in Gortyna a quorum of three hundred seems to have been sufficient for the transaction of important business, in the third and second centuries.) As is noted by Van Effenterre himself, the formula *ἴδοξε τοῖς κόσμοις καὶ τῷ πόλει* often occurs; which fact, coupled with Aristotle's reminder that the magistracy which convenes the sovereign Assembly enjoys the supreme power in the state, supports the argument advanced here. Even the few cases where the

<sup>2</sup> Van Effenterre CMG 164.

<sup>3</sup> IC 1.XXIV.2.

<sup>4</sup> Pp. 148-9.

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*kosmoi* play no part in the recorded legislation, or where there is mention of a sovereign Assembly, are not sufficient evidence in themselves of the existence of a democratic constitution in the cities in which they occur. For Aristotle, in his day, was not unacquainted with the temporary overthrow of *kosmoi*. Such a possibility may be considered to have been more likely when the citizens enjoyed wider powers.

If we had more information about the composition of the Council and its status at different periods, we should be in a position to judge more accurately the nature of any deviations from the constitutional norm. Here, however, our sources are regrettably deficient. But the narrow basis of selection of the *kosmoi* from certain privileged clans seems not to have undergone change. On the contrary, in fact: for a number of inscriptions of the Hellenistic period show that close relatives served together, and there is some evidence to show that secretaries may have been chosen from among the family in power. Such hereditary privileges would have been undermined by any radical change in the system. But the institution of the *kosmoi*, comparable in its persistence with the Holy Roman Empire, and as oblivious of change, encountered no similar Napoleon and no curt epitaph. The original of that Empire, long before it had acquired pretensions to holiness, tolerated the senility of a title which recalled the ordering of what were now fragments of a province, and had once been autonomous states, according to the needs and the will of the few.

It can therefore be concluded that the political regime, in keeping with its economic basis, remained essentially aristocratic, but, on the other hand, ceased to be the close oligarchy of earlier times, since the general citizen body became increasingly involved in the legislative and executive functions of the state, as may be judged from the context of the inscriptions and the need for official secretaries of the Assembly.

The general conclusion is supported, and not weakened, by an examination of the evidence which Van Effenterre adduces in his attempt to define the stages of democratic development. He finds the beginnings of the development in the Aristotelian evidence that, round about the decade 340-330 B.C., an aristocratic regime was general for Crete, but that there were frequent troubles and political strife which can be interpreted as preliminary signs



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of the triumph of democracy. By the middle of the third century, and perhaps somewhat earlier in certain areas, the inscriptions give many proofs of the existence of democratic institutions, which developed at the end of the fourth and during the course of the third century. It is conceded that the Cretan epigraphy retains few traces of such a political evolution and it is impossible to cite any single document with absolute certainty; nevertheless, it is claimed that there are certain texts which are inseparable from its conception.

First of all, there are the civic oaths of Itanos and Dreros. Van Effenterre's view is that, far from being a general formula of fidelity to such and such an external alliance, the latter is a specific text whose purpose was to bind young citizens, present and future, to a political régime which has undergone modifications sufficiently serious to warrant the likelihood that they were of a democratic character; and he refers to his discussion of the text elsewhere.<sup>1</sup> His view of the oath is opposed to the conventional interpretation which sees it as relevant only to foreign relations, an example of the bitterness of the struggles which involved the Cretan cities in continual warfare, because of the violence of the sentiments of the Drerians towards Lyttos expressed in the document. In fact, he claims, this text is of a wholly different character: the formal renunciation of any kind of treason, factional activity and conspiracy (l. 55 f.), the undertaking to denounce such manoeuvres (l. 70 f.), the measures taken to ensure the annual renewal of the oath (l. 94 f.)—all these features distinguish this text from those normally applicable to relations between states and are rather to be compared with the civic-oath of Itanos. Both of these oaths take their place among the few documents which give us an insight into the domestic politics of the Cretan cities, the hostility between rival factions of citizens, the struggles for power, the risings, about which we have been inadequately informed, but which alone can explain the continual sudden changes recorded by the historians in their accounts of wars, and attested by the numerous treaties of alliance between the Cretan cities in the surviving inscriptions.

The Drerian inscription enables us to reconstruct the internal

<sup>1</sup> BCH LXI (1937) 327-32. Van Effenterre maintains that no decisive arguments are brought against his case by Robert (REG (1939) 494) and Guarducci (*Epigraphica* I (1939) 94). Cf. further bibliography in IG I p. 86.

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situation of the city at the time. An imperfect civic unity is apparent from the obligation laid upon the youth to forswear conspiracy and denounce those who conspire. The need to make such a denunciation before a majority of the *kosmoi* indicates a lack of confidence in some of them. The threat of the penalties accompanying a failure to administer the oath, directed not merely against the *kosmoi*, as is usual, but against the Council in case of need, causes us to suppose that the highest authorities of the city were not free from suspicion.

The oath is then a proof of a troubled political situation, in which the party favourable to Knossos and hostile to Lyttos must have succeeded in assuming power, though its adversaries remained strong and might well have numbered among their adherents a more or less avowed section of the *kosmoi* and even of the Council. Since the Council, an essentially conservative and aristocratic body in the Cretan cities,<sup>1</sup> is threatened with fines; and since these fines are to be distributed among the *hetairiai* and those on frontier service, a provision which he thinks may have a demagogic flavour, Van Effenterre envisages the hypothesis that the party favouring war with Lyttos was the Drierian party of democracy, especially as Lyttos, the colony of Sparta, had the reputation of faithful loyalty to the markedly aristocratic traditions of its homeland.

The oath would have been imposed on the youth in order to suppress the last elements of resistance among the defeated aristocratic party. In support of his conclusion, admittedly tentative, about the immediate purpose of the oath, Van Effenterre cites the opinion of Glotz: 'les serments civiques conservés par les inscriptions ont été pour la plupart formulés et gravés après un changement de régime';<sup>2</sup> and he refers, without discussing it, to an article by Zhebelev on the oath of the Tauric Chersonesos, of the end of the fourth or beginning of the third century B.C.<sup>3</sup>

Zhebelev compares this oath with the Drierian, points to the widespread party strife of the period, and argues that a social revolution had taken place in the city, which ended in fiasco; and that the oath, which is taken by all the citizens, was occasioned

<sup>1</sup> Presumably at this time (1997) Van Effenterre did not envisage the possibility that the Council might have changed its character.

<sup>2</sup> *Ét. soc. et jur. sur l'Antiq. grecque* 3.118.

<sup>3</sup> S. A. Zhebelev *Khersonesskaya priznaga in Izvestiya Akademii Nauk VII Seriya (Otdelenie obshchestvennykh nauk)* no. 10 (1935) 913-39.



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by these disturbances and is directed against the democratic movement. He cites Aristotle<sup>1</sup> on the Athenian revolutions at the end of the fifth century B.C. to illustrate that such oaths were taken in times of crisis; and he takes due note of a significant feature which Van Effenterre overlooks, namely, that both the Drerian and Italian oaths contain old elements, the interest and importance of which, in the case of the Drerian, has been previously discussed.<sup>2</sup> Although Zhebelev's hypothesis is strengthened by his references to the Cretan and other oaths, Van Effenterre derives no similar support from his reference to Zhebelev. His own hypothesis cannot be admitted in the absence of proof of a genuine democratic movement. The more cautious estimate of Glotz, that oaths can be associated with a change of regime, is more likely. However, a change of regime was customary in Aristotle's day, without implying any change in the economic basis or the political structure of aristocracy. But the continuing and perhaps intensified vigilance of the *kasmoi* over the youth of the Cretan cities, attested by the inscriptional references to the annual oath, and the stringency of the measures associated particularly with the Drerian oath, indicate the prevalence of more serious disputes than were customary in Aristotle's time, and which are fully consistent with the view that the mid-fourth century saw the beginnings, not of a democratic movement in the strict sense of the term, but of an intensification of factional political struggles associated with the efforts of the general citizen body to increase its political power at the expense of the privileged hierarchy. The great merit of Van Effenterre's interpretation of the Drerian oath is his emphasis on its relevance to a contemporary domestic situation; its weakness once again lies in its overstatement of the case for a democratic movement of an unspecified nature.

The Italian oath is,<sup>3</sup> in some respects, more important even than the Drerian oath, because it gives us some indication of economic motives behind the political struggles of the period; and also because it provides the most conclusive evidence of the limited aims of those struggles. Since the content of the oath has been explained,<sup>4</sup> it is only necessary to express agreement with Van Effenterre's own view,<sup>5</sup> that the oath suggests that the old dominant oligarchy had been compelled to promulgate a number

<sup>1</sup> *AA.* 31.1; 39-4. Cf. Hignett *HAC* 280, 294.

<sup>2</sup> *IC* 3.IV.B. Cf. 7.

<sup>3</sup> Pp. 128-9.

<sup>4</sup> Pp. 119-23.

<sup>5</sup> *CMG* 169.

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of measures whose effect was to enlarge the citizen body; and by these concessions it was enabled to maintain the essential character of the constitution and to counter the extremist tendencies of the more ardent 'democrats': division of lands and real estate, and abolition of debts. His conclusion seems to be fully consistent with the evidence, namely, that there was not yet a complete democracy in power at Itanos, nor, on the other hand, an aristocratic regime of the old type. The tentative suggestion has been offered that, on one occasion elsewhere, a section, or sections, of the *apeltairoi* may have been associated with the wresting of similar concessions from the more privileged.<sup>1</sup> For Van Effenterre,<sup>2</sup> the Italian inscription represents the record of the first stages of a slow political evolution towards democracy, at the beginning of the third century, and the Drerian, in the third quarter of the century, undoubtedly represents the last. But there is no evidence to enable us to form such a precise conclusion about the nature of the contemporary conflict in Dreros which occasioned the oath.

The principal reason why such demands as those for the partition of land and abolition of debts were only likely to have achieved, at best, a partial success, is that those who voiced the demands could not call upon the assistance of the serfs who formed both the essential element in the prevailing economy and the most numerous section of the population, without causing a complete upheaval in the whole social structure. In the absence of evidence to the contrary, we must assume that the citizens of one state continued to refuse, as they had in Aristotle's time, to call upon the assistance of the serfs of the states with whom they were at war. Hence, it hardly seems likely that they contemplated the more drastic possibility of arming their own serf population against the authorities of their own states. Such a step would have involved them in proceeding beyond the limits of their designs. For we must not take it for granted that a demand for a re-division of the land necessarily implies a democratic movement. The nature of such a demand was determined by the prevailing economic and political context. According to Aristotle,<sup>3</sup> factions arose in aristocracies in some cases owing to a monopoly of honours, and were most likely to occur where a large number of people could become presumptuous on the grounds of being equal in virtue. He cites the Partheniai of Sparta as an example;

<sup>1</sup> P. 148.

<sup>2</sup> CMG 169.

<sup>3</sup> *Pol.* 1306 b 22-1307 a 2.



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they were detected in a conspiracy and sent away to colonize Taras. A second potent cause he attributed to the unequal distribution of wealth, quoting the condition of Sparta at the time of the Messenian War, when, because of the distress occasioned by the war, there were some who proposed a re-division of the land.

In Crete, similar demands probably contributed to changes in the older structure of aristocratic society. But meantime, other outlets for the energies of the citizens of her states began to develop, which were likely to have played their part in stifling a generally more radical development than can be discerned at Itanos, in the form of piracy and mercenary service.<sup>1</sup> Nor should we ignore the migration of Cretans to Miletos, which apparently took place round about 228-222 B.C.<sup>2</sup>

Relying on a somewhat disputed passage from Ephoros,<sup>3</sup> Van Effenterre considers that, in the fourth century, Knossos was the initiator of reforms in Crete, while Lyttos and Gortyna represented the conservative elements. In the period round about 260 B.C., the agreements concluded with Miletos are said to show similar opposing tendencies,<sup>4</sup> since the judgment of certain difficulties is entrusted, at Knossos and its allied cities, to the *kosmoi* and Council, whilst at Gortyna, Lyttos and the several states of the Gortynian league, only the *kosmoi* are charged with their jurisdiction. But, according to Muttelsee,<sup>5</sup> the Council which shared judicial power with the *kosmoi* at Knossos was of the type of the archaic *bola*, the aristocratic Council which had formerly held the administration of justice in its hands. If this view is correct, Van Effenterre agrees that it would be necessary to admit that Knossos had not travelled very far along the road of democratization which she had earlier begun to travel, and that Gortyna and Lyttos had rapidly outdistanced her, since they had transferred judicial functions entirely to the supreme magistrates. However, he is reluctant to admit that the possession of judicial powers by a Council proves its aristocratic character, and maintains that the Council might have been associated with a democratic Assembly;

<sup>1</sup> Cf. Ch. XXI.

<sup>2</sup> Van Effenterre (CMG 176) refers to the precautions taken later, when the possible return of some of their number was envisaged, as indicating that their original departure was connected with internal political motives.

<sup>3</sup> *Ap. Str.* 10.481: τοὺς δὲ Κρήτας ἀπελαττήσαν, κακοθεμιστὰς τῶν πόλεων, καὶ μάλιστα τῆς Κνωσίδος, τῶν πολυμοσίων· μέναι δὲ τινα τῶν τοιούτων παρὰ Λακωνίας καὶ Γορτυνίας καὶ ἄλλοις τοῖς πολυχρήτοις μᾶλλον, ἢ παρ' ἐκείνοις. Cf. Van Effenterre *ibid.*

<sup>4</sup> Cf. p. 117.

<sup>5</sup> ZVK 22.

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but he does admit the impossibility of deciding which group of cities was more conservative, which more democratic. Nevertheless, he continues to hold fast to the view that, in the period round about 260 B.C., the Knossian and Gortynian leagues must have had different internal political regimes. But if, as seems likely, the concept of democracy in any genuine sense is to be abandoned, the attribution of such sharply distinguished ideological motives to different groups of cities is hardly necessary. For Plato and Aristotle, warfare between the cities of Crete was already endemic.

Recalling his interpretation of the oath of the Drerians, Van Effenterre maintains that it demonstrates, in the years preceding the Lyttian war, the prolongation of the political state of affairs which he envisages, since the opposition of the Drerians to Lyttos would accompany loyalty to the Knossian alliance, and demonstrates sharp differences in domestic policies. When the war broke out, a little later on, it was at Gortyna that internal troubles were most violently manifested. The 'Young Gortynians' and the 'Old' shamelessly appealed to outsiders to secure the triumph of their particular faction. Here, however, Van Effenterre encounters a difficulty. All would be well with his theory, he admits, if the Knossians, whom he has proclaimed as the champions of democracy, had not been on this occasion the allies of the 'Old Gortynians', of the conservative party. Consequently he abandons any attempt to solve the contradiction in the existing state of the evidence.

But the revolution at Gortyna deserves some detailed examination, partly because it is definitely recorded as a revolution, partly because of its singular features, which have not been properly explained. If there was a democratic movement in Crete, we might expect to find its traces in a revolution in one of its major cities. The account given by Polybios has already been cited.<sup>1</sup> We must now turn to the few inscriptions which have been rightly associated with the narrative of Polybios.<sup>2</sup>

The most important of these is the decree of the Gortynian Assembly ordering the use of bronze money and the non-acceptance of silver obols.<sup>3</sup> After prescribing the penalty for infringements, the decree continues: *neither δὲ | ποτὶ τὰν νεότα, τὰ; δὲ*

<sup>1</sup> P. 164.

<sup>2</sup> IC 4.162, 163, 164, and perhaps 89. Bibliography and discussion IC 4 p. 223.

<sup>3</sup> Cf. pp. 131-2.



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νεότας ὀμνέοντες κρινόντων οἱ ἐπὶ κατ' ἀγορὰν, || οἱ κα λάχωντι κληρώμενοι (ll. 7-10). That is to say, disputes are to be referred to the *neotas* and (according as we take οἱ ἐπὶ κατ' ἀγορὰν together, with Halbherr and Blass, or take κατ' ἀγορὰν to go closely with κρινόντων, with Guarducci) of the *neotas* the 'seven who are elected as *agoranomoi*' (Halbherr) shall give judgment under oath, or give judgment at the market-place.

When he published the inscription, Halbherr commented:<sup>1</sup> 'A new political body, which up to the present has not been mentioned either at Gortyna or in any other Cretan city, is this *neotas*, from the membership of which are taken these ἐπὶ κατ' ἀγορὰν who are to act as judges in the cases here contemplated. The name is here found first in the accusative, then in the genitive. In the fragment which I shall publish under the following number,<sup>2</sup> it is found in the nominative. From these three occurrences it is seen to have a very anomalous declension: nom. ἡ νεότας, gen. τῶν νεότας, accus. τὰν νεότα. This new substantive with collective meaning should be compared with νεότης,<sup>3</sup> which can designate, as has been also suggested to me by Professor Comparetti, only a body constituted by νέοι in contradistinction to the γερονσία or βουλῆ, a legislative and political body constituted by the πρεσβύτεροι or πρεσβύστοι. The ἐπὶ κατ' ἀγορὰν, who are selected by lot from among them, correspond evidently to the ἀγορανόμοι of Athens and other Greek cities.'

The absence of mention of the *kosmoi* and the use of the lot do not justify an explanation of the *neotas* in terms of a new kind of Council developed under the influence of democratic institutions. For in the next inscription, which is closely associated with the one under discussion, *kosmoi* are mentioned; and the use of the lot is much older than democracy. (The further fragmentary inscription (IC 4.164) contains a word νεοτατεύοντα: the verb νεοτατεύειν is formed from νεότας as προστατεύειν from προστάτης.<sup>4</sup> Otherwise it does not add to our knowledge of the *neotas*.)

Can we find evidence elsewhere to enable us to explain what the *neotas* was? Assuming that it was an organized body of *neoi*, as seems logical, there are definite grounds for supposing that we can.

The earlier work of Collignon, Poland and Ziebarth on the

<sup>1</sup> AJA. I (1897) 197.

<sup>2</sup> Cf. νεολαία.

<sup>3</sup> Jh. 198 no. 20 = IC 4.163.

<sup>4</sup> Guarducci *ad loc.*

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*neoi* was continued by Forbes.<sup>1</sup> His careful survey of the evidence showed that associations of *neoi* existed at one time or another in seventy localities in the Graeco-Roman world—in Greece, Macedonia, Thrace, the Aegean islands, Asia Minor, Bithynia, Caria, Cilicia, Ionia, Lycia, Lydia, Mysia, Pamphylia, Phrygia, and Mesopotamia. The earliest evidence relates to Troezen, in the late fourth century B.C.;<sup>2</sup> and it continues into the third century of the Christian era. Forbes emphasized the need for the considerable caution he himself exercised in his geographical survey of the distribution of the *neoi*: 'It is difficult always to be sure of one's ground in amassing such evidence on the *neoi*. As any Greek lexicon shows, the word *véoi* was freely used by the writers of all periods in a non-technical sense, alluding in a loose way to young men who might not be in the least organized. The same difficulty is experienced with the general and the special use of the word *ἐφηβοί*. In literature the terms are often employed in the general, unrestricted sense, but in the inscriptions, which are usually of an official character, we expect the limited sense to be the more common. Even the inscriptions, however, may lead the unwary into error: *neoi* and *ephebi* were wholly separate organizations, and yet a few inscriptions use the two words synonymously. . . . Literary sources often confound *neoi* with *ephebi*.'<sup>3</sup> That the phenomenon can be proved to have been so widespread and prolonged, despite the confusion of the evidence, is all the more remarkable.

In its technical sense, the word *neoi* refers to youths who were older than *ephebi*, ranging from a minimum age of nineteen or twenty years to an indeterminable maximum.<sup>4</sup> Normally, the governing and executive personnel of an association of *neoi* consisted of a gymnasiarch, secretary and treasurer, under whose leadership they formed a corporate group, legally capable of taking corporate action; the commonest name for them was *οἱ véoi*, but in a few cases they are officially described as a 'synod' or 'synedrion'.<sup>5</sup> Flourishing throughout most of the Greek world, but particularly in Asia Minor, as an aftermath of the *ephebic*

<sup>1</sup> *Nc.* Forbes gives a bibliography of all books and articles on the subject consulted by him. Cf. Caratzas in *GL* 32 (1953).

<sup>2</sup> *IG* 4.749.

<sup>3</sup> *Nc.* 5 and n. 17-20.

<sup>4</sup> Forbes, *ib.* 2, cites the Chian inscription (*SIG* 959) which lists in order the *paidai*, *ἐφηβοί* and *νεοί*, and treats *νεοί* as synonymous with *ανδρες*. (*X. Mem.* 1.2.35 shows that men up to the age of 30, at least, might be called *νεοί*.) Cf. Collignon *CNOG* 136, Hogarth *GH* 74.

<sup>5</sup> *Nc.* 38.



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training, the bands of *neoi* primarily devoted themselves to gymnastic and athletic sports; but in political and municipal life they were more important and influential than ephebi, and ranked next to the *gerousia*; in civic decrees we often find the *neoi*, and rarely the ephebi, associated with the highest political bodies.<sup>1</sup>

Similar organizations of young men existed under different names. *Ἐπὶ ἐφηβοῖς* or *οἱ ἐκ ἐφηβῶν* appear in Attic inscriptions of the second century B.C., but may have been organized at the end of the fourth; these exephebi of Athens, and also of Miletos, were probably *neoi* in all but name.<sup>2</sup> The term *νεώτεροι* is sometimes used as an equivalent of ephebi, or as including ephebi and *neoi*; since they formed a 'synod' in A.D. 31,<sup>3</sup> and as early as the third century B.C. are a group apart from other citizens,<sup>4</sup> the *neoteroi* were presumably an association similar to the *neoi* formed by the Greeks in Egypt.<sup>5</sup> But the most common name, apart from *neoi*, applied to young men who had passed the ephebic age, was *neaniskoi*.<sup>6</sup> Sparta, Athens, and of the Aegean islands, Delos and perhaps Aegina, are among the nineteen localities where there is evidence of their existence. *Neaniskoi* appear to have been more concerned with military affairs than *neoi*. Their legal status, however, is similar to that of the *neoi*, for they made decrees, awarded honours, received endowments and organized 'synods'.

'If', comments Forbes, 'Collignon's similar list in 1880 included only eighteen localities, and Poland's list in 1909 only fifty-six, further accretion beyond the present total of seventy may be confidently expected.'

It would not therefore be altogether surprising if further evidence enabled us to set the Gortynian *neotai* among the official organizations of the young men which were similar in type to those of the *neoi*, and were actually described as such by Polybios in his account of the Gortynian civil war; but that we should find, however, because of Cretan conditions,<sup>7</sup> that they, like the

<sup>1</sup> *ib.* 68.

<sup>2</sup> *ib.* 18, 59-60.

<sup>3</sup> IGR 1.1928.

<sup>4</sup> BCH XXI (1897) 189 no. 3 (an inscription of Ptolemais in the Thebaid).

<sup>5</sup> *Ne.* 61.

<sup>6</sup> On the problem of interpretation see *Ne.* 61-2.

<sup>7</sup> *ib.* 15.

<sup>8</sup> *Cl.* *ib.* 50-51: 'The connection of the *neoi* with military training and military affairs must have been, as we have already determined, slight or negligible. In Hellenistic and Roman times, ordinary Greek cities must have thought preparations for warfare nonsensical and useless. Ruled by monarchs who had standing armies at their beck and call, they had terminated their independent existence as quarrelsome city-states. Naturally, they saw no reason for encouraging military training, and the preference of the young men, when left to their own devices, was for free gymnastic

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*neaniskoi*, had more concern with military affairs than *neoi*. The association of the *neotas* with an official decree, as likewise its important official status, evident from the context, would then turn out to be neither puzzling nor extraordinary. It might even transpire that we have an early precedent for that direct connection of *neoi* with a coinage which is testified in the third century A.D. at Laodicea in Phrygia, and in the second century A.D. at Heraclea Salbace in Caria. In the first case, the *neoi* of Laodicea were still important enough in the reign of Elagabalus (218-22) to have coins minted in their honour, and several coins have been found dedicated to the *neoi* of Heraclea Salbace.<sup>1</sup> The evidence on this particular point is so slight as to justify no firm conjecture. But there seems no reason to doubt that we are justified in finding a parallel between the administrative and judicial duties of the seven chosen from the *neotas* at Gortyna, and the official tasks assigned to the youth by Plato.<sup>2</sup>

Hence the 'revolution' at Gortyna is more likely to have been due to a conflict between the older and the younger citizens, already envisaged by Plato and Aristotle as a dangerous possibility, which was promoted by specific internal causes of which we are ignorant, but is perhaps to be referred to those general causes of domestic dissension already described, which were intensified by external war, rather than to a quite hypothetical struggle between democrats and oligarchs.

sports rather than for marching, drilling, and practice in the use of weapons.' (Cf. Collignon CNOG 146: 'Il est probable que les exercices militaires ont eu chez les *neoi* le même sort que dans l'éphébie, et n'ont guère succédé à l'indépendance de la Grèce'.) But Crete remained an exception for a long time. So that it is tempting to suppose that the mysterious formations of Cretan troops called 'Neocretans'—(with the Aetolians in 218 B.C., at Raphia in 217 B.C., at Magnesia in 190 B.C.; Plh. 5.3.1; 5.65.7 and 79.10; Liv. 37.40.8 and 13)—were 'Cretan *neoi*'. The traditional interpretation is 'newly-recruited Cretans'. This was doubted by Griffith (MHW 144 n. 2) who quoted a suggestion by Tarn that a question of a new kind of armament may have been involved. Cf. Van Effenterre CMG 179.

<sup>1</sup> Nos. 17 and 68.

<sup>2</sup> *Lg.* 760 c-763 c. Van Effenterre CMG 57; but cf. Mutschke ZVK 24.



## XVII

### THE BUREAUCRACY

**D**URING the course of our examination of the major official bodies which composed and managed the aristocratic states, some mention was made of individual officers who fulfilled various specific functions. Detailed discussion of a few of these, for various reasons, had its appropriate place in the more general survey of officialdom: for example, the *titai*, the *epollas*, the seven chosen from the *neoi*, the *gnomon* at Gortyna, and the *praktōres* and *logistai* at Itanos. Whilst no further detailed mention of such is necessary, we must now review those officials who have received only cursory mention hitherto, and others who have received no mention at all, so as to gain a more complete picture of the detailed functioning of the state apparatus and the types of official who were called into being in the course of its development.

The separate functions of the *kosmos ksenios* at Gortyna are apparent at an early date, and likewise the important position occupied by the *kosmos hierorgos* in the same city has been noticed. A secretary, or recorder, to the former is already mentioned in the Code.<sup>1</sup> There is one single definite reference to the secretary of the *kosmos hierorgos*, but this is late, in an inscription of the end of the second or early first century B.C. (IC 4.260). In the earliest inscription which mentions the *kosmos ksenios*, we also find the only mention of *gnomones*.<sup>2</sup>

We are ill-informed about the functions of the *esprattai*, mentioned in Gortynian inscriptions of the fifth century,<sup>3</sup> and in one of the late fourth or early third century B.C.<sup>4</sup> On etymological grounds they can be connected with the Athenian *praktōres*. Since we know that the latter actually existed at Itanos,<sup>5</sup> it is not unlikely that the Gortynian *esprattai* were charged with the function

<sup>1</sup> Col. XI 16. Cf. Arist. *Pol.* 1321 b 34-40.

<sup>2</sup> IC 4. 75 D, 87, 91.

<sup>4</sup> *Ib.* 160 B.

<sup>3</sup> Cf. p. 107.

<sup>5</sup> Cf. p. 127.

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of exacting payments. A secretary of the *esprattai* is mentioned in one of the fifth-century inscriptions.

Officials called *karpodaistai*<sup>1</sup> are mentioned in an important fifth-century inscription from Gortyna (IC 4.77), on which Halbherr commented as follows: 'The content of this fragment is new. It treats of the functions or attributes of certain *produce-dividers*, *καρποδαῖσται*, in whom I do not know whether we should recognize fiscal magistrates or private arbiters selected for the occasion here in question, and which it is not easy to determine with certainty. It is not, however, improbable that we have here a division of an inheritance with the intervention of *δαῖνται*.'

'The only article in this column that is fully preserved (ll. 4-10) prescribes that if the *καρποδαῖσται* find produce (probably grain), hidden (stolen?) or not divided, and they carry away this produce, they shall not be liable; and whoever has hidden or stolen the produce shall pay its full value beside the prescribed fines. I do not attempt to explain the rest.'<sup>2</sup>

The more likely explanation is that these officials were not concerned with a division of an inheritance but, as their name implies, with the collection of produce for the maintenance of *syssitia*; and that we should connect them with the passage from Dosiadas concerning the tithe of the produce collected for that purpose at Lyttos.<sup>3</sup> Hence, the Gortynian state, through the medium of these officials, would already have taken over the collection of the assessed amounts of produce for the *syssitia* which had previously been the concern of the *hetaireiai*.<sup>4</sup>

Clerks or supervisors of the market, *agoranomoi*, are mentioned only at Gortyna, and there not before the first century B.C.<sup>5</sup> There were usually, it seems, three of them, and they had a secretary. In view of the importance of their function,<sup>6</sup> they must have existed in other cities, and from a much earlier date. After the name of the secretary, in one of the inscriptions (IC 4.253), there follows the name of what is called a *speusdos*. The word has been connected with *speudein*, so meaning 'runner'.<sup>7</sup>

<sup>1</sup> On the accentuation (cf. Halbherr) see Guarducci *ad loc.*

<sup>2</sup> AJA I (1897) 227.

<sup>3</sup> *Ap. Ath.* 4.143 a-b. Cf. DHR II 324; Guarducci *ad loc.*

<sup>4</sup> Cf. pp. 139-40; Guarducci *ad loc.*

<sup>5</sup> IC 4 250-55; cf. 302 (2nd C. A.D.).

<sup>6</sup> Cf. Arist. *Pol.* 1321 b 12-18.

<sup>7</sup> Halbherr cited by Guarducci (*ad loc.*) who doubts a connection between *speusdos* and the *speusimoi* of Poll. 8.131.



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In one of this same set of inscriptions (IC 4.252) occurs the only mention in Crete of the office of *gynaikonomos*, familiar at Athens and other cities and, according to Aristotle,<sup>1</sup> among those offices such as Guardian of the Laws, Superintendent of Children and Controller of Physical Training, which were peculiar to states that had more leisure and prosperity and paid attention to public decorum. Some of these offices, he adds, for example that of Superintendent of Women and of Children, are not popular; for the poor are compelled to employ their women and children as servants, because they have no slaves.

Aristotle<sup>2</sup> also mentions officials responsible for guarding the revenues of the public funds and dividing them out to the several administrative departments, called Receivers and Stewards. A Steward (*tamias*) is mentioned in a Gortynian manumission decree of the second century B.C., and also in the decree of the same century at Aptera in honour of a Coan physician.<sup>3</sup>

An interesting indication of the undeveloped level of the state institutions of Arcadia, even in the second(?) century B.C., is given in the inscription which records the responsibility of the *kosmoi* for work on a temple of Artemis, defrayed from public funds.<sup>4</sup> For Aristotle<sup>5</sup> writes of a kind of superintendence concerned with divine worship, in this category being priests and superintendents of matters connected with the temples, the preservation of existing buildings and the restoration of those that are ruined, and the other duties relating to the gods. In practice, he continues, this superintendence in some places forms a single office, for instance in the small cities, but in others it belongs to a number of officials who are not members of the priesthood, for example Sacrificial Officers and Temple-guardians and Stewards of Sacred Funds. Since the state is, in this particular case, responsible for defraying expenses, and no special officers are mentioned, the two men named as *ergepistatai* may well have been priests, constituting the single office of a small state described by Aristotle.

At Knossos, probably in the second century B.C. (IC 1.VIII.13), and at Dreros in the third or second century B.C. (IC 1.IX.1), we learn of officials called *eretai*, who were presumably responsible for searching out and exacting money due to the state.<sup>6</sup>

<sup>1</sup> Pol. 1322 b 39-1323 a 7.

<sup>2</sup> Ib. 1321 b 31-34.

<sup>3</sup> IC 4.235 (cf. p. 44); IC 2.III.3.

<sup>4</sup> IC 1.V.5.

<sup>5</sup> Pol. 1322 b 18-26.

<sup>6</sup> IC 1.VIII.13.18; ib. IX.1.D 132. Cf. *East. ad Il.* 7.127.

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The composition and function of the board of magistrates called *Eunomia*, of which we have inscriptional evidence from several cities in the Hellenistic period, particularly from Lato, have aroused much speculation.<sup>1</sup> That the *Eunomia* was either the board of *kosmoi*<sup>2</sup> or the old Senate revived under Roman influence<sup>3</sup> are hypotheses rejected by Guarducci, who concludes that the duties of the *Eunomia* were connected with public discipline, or the investigation and settlement of complaints, or the worship of the gods; and that its members may be compared with the *erantai* of Knossos and Dreros, a comparison which suggests the possibility that the *Eunomia* was a board of magistrates reconstituted in the second century B.C., characterized first at Lato by the name of the goddess; and that their duties were perhaps comparable with those of the Athenian *astynomoi* and *diatetai*.

The legitimacy of associating such a diversity of functions with a single board of magistrates was later substantiated by Van Effenterre,<sup>4</sup> who, in offering a more exact interpretation of the *Eunomia*, argued that there was justification for supposing that the magistrates who composed it were charged with police duties on international routes, and with religious duties of administering or repairing certain temples. The reason was that the board, as its name implied, had the delicate task of securing respect for the laws in the mountainous frontier regions, notorious and frequent centres of dispute; and consequently its seat of office was close to the frontier sanctuaries so common in Crete.

An intensification of the powers of such a body at this time is not helpful to the argument that there had been a development of democratic institutions. For the evidence of poetry, philosophy and inscriptions demonstrates the connection between the word *Eunomia* and aristocratic conventions of orthodox respect for law and order.<sup>5</sup>

<sup>1</sup> Guarducci H 7 (1933) 199 and IC I p. 123 (*ad* XVI.5). Cf. Maiuri RL 19 (1910)

34.

<sup>2</sup> Xanthudidis REG 25 (1912) 42.

<sup>3</sup> Muttebee ZVK 31.

<sup>4</sup> REA 44 (1942) 46, with bibliography; cf. CMG 162, 302.

<sup>5</sup> Authorities cited by Muttebee ZVK 30. Cf. LSJ 1.2.



## XVIII

### OFFICIAL BUILDINGS

THE purpose of this chapter is to survey the references to official buildings as they occur in the inscriptions, a treatment which will at least suffice to indicate the part which they played in the routine official activities of the states.<sup>1</sup>

The Cretan evidence strongly supports the conclusion that there was a continuous tradition, from Homeric to Classical times, of the earlier meaning of the word *agora* as the assembly, or the place of assembly. Elsewhere, its increasingly frequent use to denote the commercial centre of the city, soon after the period in which the Homeric poems were written, indicates a rapid development of commercial practice, and made it necessary to develop new terms for the political assembly.<sup>2</sup> In Crete, as we should expect, and as we have seen, this development was much slower.

The linguistic development has its archaeological parallels. McDonald has pointed out that the *agora* in its ordinary form, in cities of the Classical period and later, would not have been suitable for regular political assemblies, frequently lasting for several hours and requiring some kind of fixed seating accommodation. Moreover, the difficulty of seeing the speaker would have been intolerable for an audience standing on the same level, unless there was a raised platform, or *bema*. But the building of such a

<sup>1</sup> The important articles by Demargne in BCH XXV (1901) 282-307 and ib. XXVII (1903) 206-32 give a vivid impression of the physical appearance and the plan of a Cretan city and its buildings. Cf., *passim*, Wycherley HGBC, McDonald PMPG, Tritsch in K 22 (1928) 1-83.

<sup>2</sup> McDonald (MPPG 37) finds perhaps the earliest reference to the *agora* as 'market-place' in an epigram attached to the Homeric writings. His further statement here that: 'A variety of expressions was invented to fill the need, but in general *ἀγορά* was adopted in the Attic and Ionic dialects, and *ἀπὸ ἀλλὰ* or *ἀλῖα* in the Doric', needs to be corrected in the light of Cretan terminology, which, as we have seen, includes neither of his Doric alternatives. Cf. Wade-Gery in CQ 37 (1943) 66 and Mitchell S 140 n. 2.

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platform is unknown until the Hellenistic period, and does not seem to have been popular. The Homeric *agora* did have some sort of permanent auditorium, and by the fifth century B.C. the theatre was the regular meeting-place of the political assemblies in almost all Greek cities. In the intervening period, if the *agora* was the scene of such meetings, there must have been some similar provision, as is in fact suggested by the *agora* of Lato and also of Dreros.<sup>1</sup>

The *agora* of Lato had broad steps rising on its northern side, forming an auditorium from which the spectators could watch spectacles or listen to speeches in the space below,<sup>2</sup> so that its position and form have much in common with the features of the early *agora*; and Tritsch maintained that it was in fact an example which fitted Homer's description of the *agora*.<sup>3</sup> There is certainly no doubt that it carries on the same tradition, although it is now maintained that the earliest constructions in Lato do not date beyond the archaic period, and some features are as late as the third century B.C.<sup>4</sup>

A similar early *agora* was found at Dreros.<sup>5</sup> Here a set of stone seats extended along the south side of an open terrace, and in one section seven rows are still in position. The structure was completed before 600 B.C. and was probably repaired in Hellenistic times. 'It, like that at Lato, was doubtless used by audiences watching religious spectacles, and it is large enough to have served as a meeting-place for political assemblies as well. These constructions seem to carry on the general form of the Minoan Theatral Area.'<sup>6</sup>

We learn from the Code that it was the practice at Gortyna,<sup>7</sup> in the mid-fifth century B.C., to make proclamations from a stone in the *agora*; and that, since the *agora* was regularly used for ceremonies connected with adoption, it was a recognized place of assembly. The decree honouring the judges from Knossos and Lyttos, ratified by the Assembly, at the end of the second century B.C., has to be conspicuously published in the *agora* at Malla.<sup>8</sup>

Of no less importance than the *agora* in the life of the city-state

<sup>1</sup> *ib.* 41.

<sup>2</sup> Demargne *ib.*; cf. Kirsten *Jahresh.* 14 (1938) 320.

<sup>3</sup> *Jahresh.* 27 (1932) 83.

<sup>4</sup> Cf. McDonald *ib.* 34.

<sup>5</sup> Demargne-Van Effenterre BCH LXI (1937) 10-15.

<sup>6</sup> McDonald (*ib.* 67) who points out that no such arrangement of the archaic period is extant in Greece proper (*ibid.* n. 118). Cf. Wycheley HGBC 53-55.

<sup>7</sup> Col. X 36; cf. XI 12.

<sup>8</sup> IG I XIX 3 A; cf. p. 147.



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was the *prytaneion*, or town-hall. It is mentioned in inscriptions at Gortyna,<sup>1</sup> in other cities of Central Crete at Biannos,<sup>2</sup> Dreros,<sup>3</sup> Istron,<sup>4</sup> Lato,<sup>5</sup> Lyttos,<sup>6</sup> Malla,<sup>7</sup> Olous,<sup>8</sup> Phaistos,<sup>9</sup> Priansos,<sup>10</sup> and Rhaukos (?);<sup>11</sup> and in East Crete at Hierapytna.<sup>12</sup> There are differences in orthography and in terminology, *βρυτανειον*<sup>13</sup> occurring at Lato and Gortyna, *πρυτανειον*<sup>14</sup> at Hierapytna, *πρυτανειον* elsewhere, *ἀρχειον*<sup>15</sup> at Hierapytna.

In the treaty between Gortyna and Lato, each city is to publish the terms in its respective *prytaneion*. At Biannos, it is recorded that the Teian envoys Herodotos and Menekles were honoured with hospitality in the *prytaneion* at the Public Hearth. The Drierian oath invokes, first of all the deities, Hestia in the *Prytaneion*, the sacred personification of the Public Hearth. In the treaty between Lato and Olous, the *kosmoi* of each city are granted access to the *prytaneion* of the other; and similarly in the treaty between Hierapytna and Lyttos. The inscription from Malla proves that the *kosmoi* took their food in the *prytaneion*, and records the granting of the same privilege to the judges of Knossos and Lyttos. When Milesian envoys visit Phaistos, the terms of an agreement are to be published in the *prytaneion* at Phaistos, in the temple of Apollo at Miletos. In the treaty between Hierapytna and Phaistos, the *kosmoi* of one city are given the rights of access to the *prytaneion*, and of sitting with the *kosmoi* in the Assembly, of the other city.

The *Koina Hestia*, or Public Hearth, is also mentioned in an Arcadian inscription;<sup>16</sup> in one from Aptera,<sup>17</sup> where the envoys from Teos are entertained at the Public Hearth; and in another from Hyrtakina,<sup>18</sup> where the same envoys are bidden to hospitality at the Public Hearth.<sup>19</sup>

<sup>1</sup> IC 4. <169> = IC 1.XVI (Lato) 1.41 (3rd C. B.C.).

<sup>2</sup> IC 1. VI.2.37 (after c. 170 B.C.).

<sup>3</sup> *ib.* IX.1.16 (3rd/2nd C. B.C.).

<sup>4</sup> *ib.* XIV p. 100 (3rd C. B.C.).

<sup>5</sup> *ib.* XVI.1.41 (3rd C. B.C.); 5.31? (2nd C. B.C.).

<sup>6</sup> *ib.* XVIII p. 181; cf. *ib.* 3.III.3 B 4 (2nd C. B.C.).

<sup>7</sup> *ib.* XIX.3 A 38 (2nd C. B.C.).

<sup>8</sup> *ib.* XVI.3.31? (2nd C. B.C.).

<sup>9</sup> *ib.* XXIII.1.66 (3rd C. B.C.).

<sup>10</sup> IC 3.III.4.35, 69 (2nd C. B.C.).

<sup>11</sup> IC 1.XXVII p. 291; cf. *ib.* 4.182.4 (2nd C. B.C.).

<sup>12</sup> IC 3.III.3 B 4? (2nd C. B.C.); *ib.* 3 C. 14-15 (2nd C. B.C.); *ib.* 4.37, 69 (2nd C. B.C.).

<sup>13</sup> Cf. Brause LKD 207; Guarducci *ad loc.*

<sup>14</sup> Buck GD 119.

<sup>15</sup> Cf. *Hdt.* 4.62; *Lys.* 9.9; *X. Cyr.* 1.2.3; *Isoc.* 5.4B; *Arist. Mus.* 400 b 16.

<sup>16</sup> IC 1.V.20 A 2; 14 (c. 2nd C. B.C.).

<sup>17</sup> *ib.* 2.III.2.58? (after c. 170 B.C.).

<sup>18</sup> *ib.* XV.2.18 (after c. 170 B.C.).

<sup>19</sup> In the temple of Apollo Delphinios according to Guarducci. See discussion *ad loc.*

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The *prytaneion* became accepted in antiquity as a universal feature of the city-state.<sup>1</sup> Originally the house of the king, chief or headman (*prytanis*), of an independent village or town,<sup>2</sup> containing a fire which was kept constantly burning, and from which live faggots were transferred when a colony was sent out,<sup>3</sup> it developed into the familiar building of the city-state, housing the sacred public hearth, with its perpetual fire, and associated with the cult of Hestia. Hence, as in the oath of the Drerians, Hestia took precedence even over Zeus in some public oaths.<sup>4</sup> The *prytaneion* took over the functions of the king's or chief's house in other ways. There, distinguished guests and envoys were entertained at public expense.<sup>5</sup> We have seen that the Cretan cities conformed to this general rule. The etymology of the word thus shows that, when Thucydides<sup>6</sup> writes of the several townships of Attica as formerly having their own *archon* and *prytaneion*, he refers, as Thomson concludes, to 'the house in which the principal chief had entertained the others when they met under his presidency as a council of elders at the sacred hearth of the community. And so the town-hall leads back by a long but unbroken line of descent to the first camp fire.'<sup>7</sup>

In early times the elders or councillors, along with other distinguished guests, had taken their meals in the *prytaneion*, but, according to McDonald, 'never in later times, as far as is known, did it retain its old function as the regular meeting-place of the council. . . . The typical city included a *bouleuterion* as a matter of course. . . .'<sup>8</sup> Yet, according to the available evidence, the Cretan cities appear to be, so far, exceptional. Weickert suggested that there was in the *agora* at Gortyna an archaic, apsidal *bouleuterion*, like that at Olympia, bearing on the inner faces of its curved and straight walls the inscription of the Code; but his argument is rejected by McDonald.<sup>9</sup>

The possibility cannot be ruled out that in some, at least, of the

<sup>1</sup> Aristid. *Pan.* 103.16 sch., Liv. 41.20.

<sup>2</sup> Frazer in *JP* 14 (1885) 152.

<sup>3</sup> *EM* πρυτανεία.

<sup>4</sup> Cf. *IG* 1 IX.1; *Pl. Lg.* 745 b, 848 d; *Paus.* 5.14-4.

<sup>5</sup> Darenberg-Saglio *s.v.* *Prytaneion*. Cf. Charbonneau in *BCH* XLIX (1925) 167-B.

<sup>6</sup> *Th.* 2.15.

<sup>7</sup> *SAGS* 363. Cf. Frazer (*ib.* 167 *et passim*) who explains the religious duty of keeping a sacred fire from the convenience of keeping a constant fire in ages when the kindling of fresh fire was difficult.

<sup>8</sup> *PMPG* 127-8; cf. *Poll.* 9.28-46.

<sup>9</sup> *ib.* 189-92.



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Cretan cities, the councillors continued to meet with the *kosmoi* in the *prytaneion*. This would help to account for the relative lack of inscriptional information about the Council, its meeting-place and functions alike, though again it would be of no help to the theory of democratic advance. For, as Wycherley points out: 'As the cities developed politically, democratically elected councils required a dignified hall where they could deliberate in seclusion no less than their regal and aristocratic predecessors'.<sup>1</sup>

The gymnasium was another indispensable feature of the Greek city-state,<sup>2</sup> and large cities often had two or more gymnasia, besides additional *palaistrai*. In the advanced cities of the mainland, as intellectual education progressed, it still tended to remain closely related to physical education. The relationship between gymnastic, music and philosophy was reflected in the life of the gymnasium, and in its arrangement and architectural form.<sup>3</sup> But, to quote Wycherley, 'in the education of early times there would be an emphasis—by no means lost even later—on the production of good soldiers'.<sup>4</sup> The literary and inscriptional evidence that has been surveyed gives no reason to suppose that this emphasis did not continue to remain dominant in the Cretan system of education.

The Cretan term for gymnasium was *dromos*.<sup>5</sup> Fougères defined four periods in the history of the gymnasium.<sup>6</sup> In the first period there was only a *dromos*, a running course or sports ground; the second was an archaic period for which Athens affords examples; the third was the fourth century and the Hellenistic period; and the fourth was the Roman period. There may have been advances elsewhere in Crete, but the inscription from Malla in which *dromos* occurs is dated to the end of the second century B.C.<sup>7</sup>

The *chreophylakion* is mentioned at Knossos,<sup>8</sup> Lato and Olous,<sup>9</sup> Gortyna,<sup>10</sup> and Polyrhénia.<sup>11</sup> It is clear from the evidence at our disposal that it played a part of some considerable importance in the diplomatic and financial relations between the states. At a

<sup>1</sup> HGBC 125. Cf. on Athens before Kleisthenes, Charbonneau ib. 172.

<sup>2</sup> Cf. Pauz. 10-11.

<sup>3</sup> Wycherley ib. 140.

<sup>4</sup> Ibid.

<sup>5</sup> Cf. pp. 11-12.

<sup>6</sup> In Daremberg-Saglio s.v. Gymnasium. Cf. Wycherley ib. 143.

<sup>7</sup> IG I.LXIX.3 A.41. Cf. p. 12.

<sup>8</sup> IG I.XVI.4 A.33 (117/16 B.C.). Spelling *χρεοφυλάκιον*.

<sup>9</sup> Ib. 5-40 (later and C. B.C.). Spelling *χρεοφυλάκιον*.

<sup>10</sup> IG 4.232.7 (c. 2nd C. B.C.). Spelling *χρεοφυλάκιον*.

<sup>11</sup> IG 2.XXIII.6 A (c. 2nd C. B.C.). Spelling *χρεοφυλάκιον*.

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time when it was possible to refer only to one Cretan inscription, relating to the negotiations between Lato and Olous, with Knossos as arbitrator,<sup>1</sup> Dareste gave an account of the available evidence on the *chreophylakion*.<sup>2</sup>

He began by pointing out that the building in which the magistrates of a Greek city met was normally called the *archeion*. In it were kept decrees, documents and property titles of concern to the state: which accounts for our word 'archives'.<sup>3</sup>

In the majority of cities, the public archives served as repositories for titles of property or of records of debts. Contracts involving transfer of immovable property were subject to such formal registration, *anagraphe*: so that the sale or purchase took place *διὰ τῶν ἀρχείων*. The original deed of the transaction would normally remain with the interested party, a copy with the archives. If the transaction was irregular, and had been rendered null and void through fraud, the official in charge of the archives could refuse to accept it for deposit.

Dareste gave a list of cities, mainly in Phrygia, Lycia and Caria, where the *archeion* served as a repository for private contracts; and a further list of variant terms for the *archeion*, including *Ἡφυλάκη τῶν γραμμάτων*, *grammatophylakion*,<sup>4</sup> *rhetrophylakion*, *syggraphophylakion*, *tethmophylakion* or *thesmophylakion*, *chreophylakion*, and *grammateion*.

It seemed that formal titles could be deposited whether a mortgage was involved or not. Since payment could only be effected against the delivery of the title, the deposit of the title could serve as an indemnity. Dareste found an example of this procedure in an edict of Tiberius Alexander, governor of Egypt,<sup>5</sup> and a further example in the Cretan inscription published by Homolle, where

<sup>1</sup> See Homolle in BCH III (1879) 290-315. Cf. IC I.XVI.4.

<sup>2</sup> BCH VI (1882) 241-5. Cf. Thalheim in RE s.v. *χρεοφύλακες*.

<sup>3</sup> Cf., however, McDonald (PMPG 155-6) who explains that it was natural that the earliest documents having to do with political and civil matters should have been kept in the building which was the centre of political and civil life, the *prytaneion*. Then the *bouleuterion* came to serve as the place for filing political documents on papyrus and wood, and for storing or setting up in view inside or outside the building similar documents inscribed on stone. Occasionally the *prytaneion* was retained for the archives, or a building close to the *bouleuterion* was used, presumably because the *bouleuterion* could not conveniently accommodate these records. Sometimes these distinct buildings are called *grammatophylakeia*.

<sup>4</sup> A Cretan example, from Hierapytna, was published later by Haussoullier in BCH IX (1885) 20 no. 15 = IC 3.III.30 (and C. A.D.).

<sup>5</sup> Citing CIG 4957.23.



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the cities of Lato and Olous agree to submit the arbitration of their differences to the city of Knossos. Each of the two cities is pledged to adhere to a given decision, and as a sign of good faith agrees to be bound by a sum of ten Alexandrian talents payable to Knossos, and to provide, within twenty days, sureties at Knossos, to guarantee the eventual payment of the ten talents. The treaty stipulates that these sureties will be provided through the agency of the *chreophylakion* of Knossos, διὰ τῷ Κνωσσοῖ χρεωφυλάκειῳ (l. 33), that is to say, as Homolle had explained, that the two cities of Lato and Olous will purchase credits on persons at Knossos and will deposit the titles with the *chreophylakion* of Knossos, or will purchase credits of which the titles are already deposited. How would this system operate? Probably, thought Dareste, by simple transfer of title, without relevance for the distressed debtor. For the titles of credit, although bearing the name of the original creditor, were payable to the bearer, without further need of implementation. The simple possession of title would in itself be a sufficient power of mandate.

Hence, as Dareste concluded, the *chreophylakion* provided a potent means of credit and would facilitate commercial transactions of credit in a peculiar way. But, whilst it generally assured the preservation of titles, such preservation was sometimes compromised, as when the *chreophylakion*, with its records, was burnt down in the course of a sedition at Jerusalem, described by Josephus:<sup>1</sup> an account which makes clear that, although the *chreophylakion* could help the transactions of creditors, it could inspire hatred among the debtors.

The arrangement made by the Knossians exemplifies the vulnerability of the debtor and the power of the creditor, with the backing of the state. In case the treaty was violated, the magistrates of Knossos, thanks to the facility allowed their city, in its capacity of arbitrator, of choosing Knossian sureties, simply had to act against citizens of Knossos. The Knossians, as arbitrators, were thus initially protected; and if, of the other two cities, one broke the agreement, it had to pay the fine in full, and the offended city was equally assured of full compensation.

In the treaty between Lato and Olous,<sup>2</sup> stipulating a perpetual alliance, among other provisions regarding the territoriality of their respective laws, the two contracting parties allow their citi-

<sup>1</sup> BJ 2.427.

<sup>2</sup> IC I.XVI.5.

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zens the mutual rights of buying and selling, lending and borrowing and making contracts through the medium of their respective *chreophylakia*. This may well have been a normal provision in such treaties.<sup>1</sup>

The *agreion*, occurring at Gortyna in an inscription of the archaic period,<sup>2</sup> may indicate the place (or, less likely, the building) in which the citizen men-at-arms and the young soldiers were mustered—since *agora* is used of the place of assembly merely. It is possible that the word is to be connected with the *agretas*, found in an archaic inscription from Dreros, who may have been an official responsible for the tribal muster.<sup>3</sup>

The *andreion*,<sup>4</sup> as the centre of public meals, is mentioned in a fragmentary early law from Axos,<sup>5</sup> and in a later legal fragment from the same city.<sup>6</sup>

In an inscription from Lato,<sup>7</sup> the word *Eunomia* is used, not of the board of officials, but of the place or building where they met.

Finally, the official seat of justice was known as the *dikasterion*.<sup>8</sup>

<sup>1</sup> Cf. Homolle *ib.* 309.      <sup>2</sup> IC 4.9 a-b; cf. *ibid.* l.

<sup>3</sup> The exact sense is not certain (see Van Effenterre in BCH LXX (1946) 590-7), but it is at least clear that, in this early period, the city had to consult with the tribes before deciding on the powers of this official. He may have been a herald. But I am inclined to agree with Guarducci (IC 4 p. 55) that the second of the alternatives proposed by Van Effenterre is more likely, viz.: 'On peut dans un tout autre sens considérer l'*agretas* comme un fonctionnaire militaire, le chef qui a la charge de convoquer le ban des guerriers, de rassembler non plus les citoyens à l'assemblée, mais les hommes et les jeunes gens pour la sauvegarde de la cité' (*ib.* 596). Cf. Spartan *ἐπαγγράτας*, X. HG 3.3.9 and Hsch. 1.2; also Hsch. 1.2. *ἀγγελταῖς συνδρομισθῆναι* and *ἀγγελταῖς ἡγεμόνα θεόν*.

<sup>4</sup> Cf., at Gortyna, p. 23 n. 3; Arist. *Pol.* 1272 a. On the building which may have been the *andreion* at Dreros, see Marinatos in BCH LX (1936) 254.

<sup>5</sup> IC 2.V.1.8 and 15 (6th-5th C. B.C.). Spelling *ἀνδρείον*. The word *δίασις* in line 8 may mean the food provided at the public meals. Cf. Guarducci, *ad loc.*

<sup>6</sup> *ib.* 25 A 3 (about 3rd C. B.C.). Spelling here *ἀνδρήιον*.

<sup>7</sup> IC 1.XVI.24.2.

<sup>8</sup> Code Col. XI 15. Cf. Guarducci *ad loc.*



## XIX

### JUDGES AND JUDICIAL PROCEDURE

THE administration of justice and the manner of judicial procedure have an important place in the history of the institutions of any state. In the case of Crete, these topics have assumed a particular relevance since the discovery of the Code of Gortyna. We have seen that there is general agreement about the dating of the Code to the fifth century, and that it has been compared with the legal system of Athens in the seventh and sixth centuries.<sup>1</sup>

If we take this comparison seriously, Aristotle's description of the Athenian political situation before the time of Drakon has instructive analogies for the development of Cretan institutions:

'The magistrates were elected according to qualifications of birth and wealth. At first they governed for life, but subsequently for terms of ten years. The first magistrates, both in date and in importance, were the King, the Polemarch and the Archon. The earliest of these offices was that of the King, which existed from ancestral antiquity. To this was added, secondly, the office of Polemarch, on account of some of the kings proving feeble in war; for which reason Ion was invited to accept the post on an occasion of pressing need. The last of the three offices was that of the Archon, which most authorities state to have come into existence in the time of Medon. Others assign it to the time of Acastus, and adduce as proof the fact that the nine Archons swear to execute their oaths "as in the days of Acastus", which seems to suggest that it was in his reign that the descendants of Codrus retired from the kingship in return for the prerogatives conferred upon the Archon. Whichever way it be, the difference in date is small; but that it was the last of these magistracies to be created is shown by the fact that the Archon has no part in the ancestral sacrifices, as the King and Polemarch have, but only in those of

<sup>1</sup> Cf. pp. 3-6.

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later origin. So it is only at a comparatively late date that the office of Archon has become of great importance, by successive accretions of power. The Thesmothetae were appointed many years afterwards, when these offices had already become annual; and the object of their creation was that they might publicly record all legal decisions, and act as guardians of them with a view to determining the issues between litigants. Accordingly, their office, alone of those which have been mentioned, was never of more than annual duration. So far, then, do these magistracies precede all others in point of date. . . .

‘(The Thesmothetae) had power to decide cases finally on their own authority, not, as now, merely to hold a preliminary hearing.’<sup>1</sup>

It was certainly the case in Crete that the magistrates were elected according to qualifications of birth and wealth. There is no evidence that they at first governed for life, but the possibility should not be overlooked. It may be no more than a coincidence that the Athenian magistrates subsequently governed for ten years, and that the earliest complete Cretan law from Dreros ordains that a man cannot be *kosmos* again for ten years—carrying with it the possible implication that another clan was to have the unrestricted right to tenure for a ten-year period.<sup>2</sup> If there is any substance in the suggestion, the three-year prohibition in Gortyna of the early period<sup>3</sup> may have represented an even prior stage in a successive breaking down of a hereditary principle, whose final stage was marked by the system of annual magistracies, and which is perpetuated in the life-tenure by *ex-kosmoi* of membership of the Council, which we have seen playing its part in some cities as a guardian of the laws.<sup>4</sup>

However that may be, it is clear that, just as the king’s military leadership had devolved upon the *kosmoi*, they likewise inherited judicial functions. In pre-Solonian Athens, the archons did not sit as a body, but each dealt with the cases assigned to them.<sup>5</sup> Similarly, the *kosmoi* at Gortyna, from an early period (perhaps seventh-sixth centuries), have special judicial functions, and by the beginning of the fifth century there is apparent a tendency for their duties to become broadly administrative in the sphere of

<sup>1</sup> *Ath.* 3, in Kenyon’s translation.

<sup>2</sup> Cf. p. 168.

<sup>3</sup> Cf. p. 106.

<sup>4</sup> Cf. *Arist. Ath.* 8.4; and Bonner and Smith *AJHA* 1 97: ‘The Areopagus, then, is nothing more than the old aristocratic senate which developed out of the Council of Elders of the Homeric Age’.

<sup>5</sup> Bonner and Smith *ib.* 84-6, 151.



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law—exemplified by the fact that they act as a judicial authority directly on one occasion only in the Code, when the marriage of an heiress conflicts with the authorized procedure.<sup>1</sup>

The *ksenios kosmos* features still, at this time, as an important judicial official concerned with foreigners and others, such as freedmen, outside the tribal community of the citizen body, and he is comparable with the Athenian polemarch. Similarly, just as the *archon basileus* at Athens conducted cases connected with religion, the *kosmos hiarorgos*, still mentioned in the Hellenistic period, probably exercised comparable functions. But, by the beginning of the fifth century, at Gortyna, there have come into existence special judicial officers called *dikastai*. 'They correspond in a general way, in so far as they were specially appointed for judicial purposes, to the thesmothetae. This is a normal development which was bound to take place with the expansion of the state and the consequent growth of litigation.'<sup>2</sup> Different duties are assigned to different *dikastai* according to the nature of the litigation.<sup>3</sup> Thus there are special *dikastai* concerned with inheritances, with *hetaireiai* and with pledges;<sup>4</sup> and the Code mentions the *orphanodikastai*, who are particularly associated with an expansion of state power in the interests of the property rights of male persons.<sup>5</sup> The judge has his *mnamon*, a public official, attached to the court, who assists in the procedure and the maintenance of records.<sup>6</sup> We have no evidence about the method of choosing the *dikastai* or about their payment; but the Code gives us vital information about them of other kinds.

Before examining the status and function of the Gortynian *dikastai* of the fifth century, within the general context of legal procedure, we may profitably digress at this point to refer again to the Hellenistic decree in honour of the *dikastai* from Knossos and Lyttos who were invited to help to establish law and order in another city, and were honoured for their work of legal arbitration in a situation of extreme confusion, when normal rights of property and rules of contract had lost their validity.<sup>7</sup> For this inscription, like others of its kind elsewhere, illustrates how the

<sup>1</sup> Cf. pp. 84, 113; DHR I 429.

<sup>2</sup> Bonner and Smith *ib.* 87.

<sup>3</sup> Indicated in the Code, Cols. VI 31 and IX 24.

<sup>4</sup> IC 4.42 B. The judges of the *hetaireiai* were perhaps concerned with tribal law and custom, and with adapting them to state requirements. Cf. Pl. *Lg.* 768 c, 915 c, 920 d; Guarducci *ad loc.*; Van Effenterre CMG 58.

<sup>5</sup> Col. XII. Cf. pp. 78-80.

<sup>6</sup> Cf. DHR I 431.

<sup>7</sup> Cf. pp. 147-8, 185.

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systematization of law, initiated early in the aristocratic period, produced special legal officers whose authority was later extended beyond the confines of their native states, as the idea of the abstract authority of law itself developed.

The method indicated by the Cretan inscription was by no means unique. An interesting analogy is afforded by an inscription from Paros, published by Martha,<sup>1</sup> which tells the story of a certain Akrisios, son of Jason, who had been sent by his native Paros to Mylasa, in his capacity as *dikastes*. He died at Mylasa, and the Mylasians spared no pains in honouring his funeral. His son Akrisios, who had gone to Mylasa as his secretary, and had succeeded him in his office, brought his father's remains back to Paros. The inscription may be his epitaph.

Martha commented on the frequency of the practice whereby one Greek city could loan *dikastai* to others, either to wind up arrears of cases which had accumulated because of war or internal strife, or in special circumstances seeming to require impartial arbitration. Inscriptions indicate the widespread development of the practice in the two or three centuries before the beginning of the Christian era.<sup>2</sup> By virtue of the functions which he exercised, and more particularly because of the preliminary negotiations required to obtain his services, the *dikastes* was a person of some consequence in the city which he visited. Normally his services would be sought by an embassy to a friendly or neighbouring city, which would name the chosen person by special decree, as Paros had nominated Akrisios. The *dikastes* and his secretary—likewise officially appointed—would act as representatives of their city, and be treated as ambassadors. When their mission had been accomplished, they would be rewarded with a public eulogy and with other honours.

The Code of Gortyna reveals an earlier stage in the development of the abstract power of law and the actual status of its functionaries. The style of writing of the Code itself is throughout simple, clear and uniform. Each regulation is expressed in the form of a conditional sentence in the third person. The protasis consists of the assumed facts, the apodosis expresses the legal consequences or provisions. The instances of subjunctives compared

<sup>1</sup> BCH VI (1882) 245-9 = IG 12.5.305. Cf. Egger EHTP 72.

<sup>2</sup> Martha cited CIG 2157, 2152 b, 2334 b, 2349, 2671, 3184, 3640; Le Bas et Foucart *Inscriptions du Péloponnèse* 35; Carapanos *Dodone et ses ruines* Annexe B 201-3. Cf. Tarn and Griffith HC 88-91.



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with optatives are in the proportion of 80 to 50.<sup>1</sup> Though the optative is sometimes used as an apparent mere variant of the subjunctive in like or identical circumstances,<sup>2</sup> yet it is elsewhere used with a still quite clear functional difference from the subjunctive, to express a more remote contingency.<sup>3</sup> The apodosis is expressed either in the infinitive, the imperative or the future tense. The infinitive is more often used, expressing a general recommendation, the imperative (in the third person) in quite specific cases, the future when payment is involved.<sup>4</sup>

The conditional form of statement in the third person might appear to be obvious, natural and worthy of no more than passing mention had not Diamond explained its importance on the basis of his comparative studies.<sup>5</sup> He points out that the Code of Hammurabi, which owes its origin partly to earlier laws of Sumerian peoples, is uniform in its language. As a rule, each clause consists of a conditional sentence in the third person, introduced by 'if'.<sup>6</sup> The protasis contains a set of facts, the legal result is in the apodosis, 'which is almost invariably couched in the equivalent of a future tense or imperative mood'. Similarly, in the Assyrian fragments, the language 'uniformly consists of conditional sentences in the third person'. So do the clauses of the Hittite Code.<sup>7</sup> In other words, in these codes of primitive law, the sanction, expressed in the imperative or the future tense, is specific and secular. Diamond is emphatic that 'neither in the Code of Hammurabi nor in any other primitive legislation is there to be found a command or prohibition in the second person, or any other rule purporting to be the words of a god'.<sup>8</sup>

Now Maine considered that: 'There is no system of recorded law, literally from China to Peru, which, when it first emerges into notice, is not seen to be entangled with religious ritual and observance'.<sup>9</sup> Summing up his impressive evidence against this view,

<sup>1</sup> Cf. Buck GD 126.

<sup>2</sup> Buck (*ibid.*) compares optative in IX 18 with subjunctive in VI 25.

<sup>3</sup> Buck well cites (*ibid.*) Col. VII 9, 'but if there should not be any free persons', as contemplated in the preceding subjunctive clauses.

<sup>4</sup> So that one verb is regularly so used, *katnataaēl* or *ēnkatnataaēl*. Why this should be so needs further investigation.

<sup>5</sup> PL 23-4, 34, 41, 55, 89 *et passim*.

<sup>6</sup> *Summa*, 'given that'. Diamond *ib.* 24 and n. 1.

<sup>7</sup> Excepting, of course, as Diamond observes (*ib.* 41 n. 1), historical statements, and lists of prices, etc., which are statements in the third person.

<sup>8</sup> *ib.* 56.

<sup>9</sup> ELC 5.

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Diamond states: 'In Maine's day there were already available for study many ancient legal traditions in writing, all commencing with true secular law, and only invaded by religious matter—if indeed they are so invaded—in the later stages of their history: the vast mass of the *Leges Barbarorum*, the Anglo-Saxon Laws, and the Ancient Laws of Wales and of Ireland. Homeric legal conceptions were obviously of a secular character. Even in its present form, the Mosaic legislation substantially commences with true civil law.<sup>1</sup> The surviving fragments of the Twelve Tables of Rome contain little of religious purport; and Maine and the best contemporary Oriental scholars were agreed that the Code of Manu does not represent a system of law that was ever in force. Since then other ancient codes have come to light, the written legislation of Gortyna and of Hammurabi, the Sumerian fragments, and the Assyrian and Hittite Codes, which disclose similar phenomena in Eastern Europe and in Asia.'<sup>2</sup>

The secular character of the primitive codes, as revealed in their linguistic form, places them in the general context of the history of human thought and institutions, and they thus exhibit certain familiar characteristics of uneven development.

The codes of primitive law are arranged by Diamond according to the economic development reflected in their provisions.<sup>3</sup> Comparing the codes, he observes conspicuous changes which reflect altered surrounding conditions and which 'appear uniformly at the same stage of development in different ages and places, and illustrate with vividness the basic uniformity of the progress of law and of civilization'.<sup>4</sup> The oldest rules of the Early Codes are pure statutory legislation, and their contents show no (or almost no) ecclesiastical bias. But the Early Codes already begin to contain partly theoretical or ideal matter representing law rather as it ought to be than as it is. At the same time begins a substantial increase in the power of religion. The Middle Codes reflect these changes. The priestly order, now a distinct profession, monopolizes learning and is a powerful influence in the state; so that the Middle

<sup>1</sup> Diamond describes that part of the Pentateuch *Ex.* 21.1 to 22.17 as 'nothing less than a true Code of ancient law', introduced by 'a startling change in the language and matter', its rules 'couched in conditional sentences in the third person singular, introduced by the word "if"', and he adds that its sanctions are definite and secular. Apart from the Code of Hammurabi, he regards it as 'the finest extant specimen of a primitive Code'. *Id.* 87.

<sup>2</sup> *Id.* 161-2.

<sup>3</sup> *Id.* 178-9; also tables at 217-18, 381-2.

<sup>4</sup> *Id.* 215.



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Codes, besides old statutory legislation, contain priestly rules of conduct. The Late Middle Codes witnessed a great birth and growth of trade. Writing has begun to spread to laymen for everyday commercial purposes, and schools for the study of law, as distinct from priestly schools, have arisen. The secular law is taken out of the hands of clerics and the Late Codes are once again true statutory legislation.<sup>1</sup>

The term 'primitive law' is used by Diamond to indicate law from its earliest beginnings until we emerge into the full light of history; so that the climax of his study of the subject is the Code of Hammurabi. 'That Code', he states, 'represents a stage—reached also in Rome about 160 B.C., in England about A.D. 1250, and in Abyssinia to-day—when the developing law begins to be invested with certain new characteristics which distinguish the mature from the primitive law.'<sup>2</sup>

A special significance is attached to the Gortynian legislation by Diamond as marking the end of the period of primitive law and the beginning of mature law, a beginning marked especially by the growth of technicalities.<sup>3</sup> 'To the increase in populations, the growth of commerce and the spreading use of writing, must be added, as an effective factor, the devolution of judicial functions upon officers of justice. A subordinate judge has no power to depart from the laws which are his instructions. Furthermore the whole system of judicature, including the rules of law which it applies, becomes an increasingly important and self-contained department of the State. In the enactment of new laws *legal reasons* for their enactment become common and influential. New rules are enacted not because they are just—though in the long run their effect will be salutary—but to assist the trial of cases.'<sup>4</sup>

One of the main indications that the legislation of the Code of Gortyna lies beyond the boundary separating primitive from mature law is provided by the number of its rulings relating to procedure, in which technicalities appear.<sup>5</sup> The procedure was analysed by Headlam,<sup>6</sup> who pointed out that throughout the Code all cases are tried before a single judge, the *dikastes*, and that there is no trace of trial before a jury for civil causes; moreover, it appears that the whole of a suit was tried before the same *dikastes*. He then referred to a distinction made in the duties of the judge:

<sup>1</sup> *Ib.* 215-17.

<sup>2</sup> *Ib.* 264.

<sup>3</sup> *Ib.* 1.

<sup>4</sup> JHS 13 (1892-3), 48-69.

<sup>5</sup> *Ib.* 340-9.

<sup>6</sup> *Ib.* 342.

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sometimes he is required to 'give judgment' (*dikadden*) and sometimes to 'decide on oath' (*omnynta krinen*). A passage of the Code<sup>1</sup> thus explains when each procedure is to be adopted: 'Whatever is written for the judge to decide according to witnesses or by oath of denial, he shall decide as is written, but in other matters he shall decide under oath according to the pleas'.

Headlam set out to prove that Zitelmann was wrong in concluding that 'there is no trace visible of a division of the proceeding *in jure* and *in judicio* like that known in Attic and Roman law'. In his view the distinction between the proceedings before the *praetor* and *judex* in Roman law, and the distinction between *anakrisis* and *krisis* at Athens, answers exactly to the distinction between the functions of the Gortynian judge; the peculiarity is that, in Gortyna, both parts of the trial took place before the same person, a fact which makes the distinction in procedure all the more remarkable.<sup>2</sup>

The procedure at the *anakrisis* at Athens, or *in jure* at Rome, had the purpose of deciding what the object was, not, as a rule, of deciding the case. The presiding magistrate had to see that all the formalities of law or custom were complied with; the accuser or the plaintiff had to state his case, to produce documents or other formal evidence on which it was based, and so on. If both parties had properly performed all that was required, the suit passed out of this stage; if a point of law or fact remained to be decided for which the law provided no formal criterion, and which therefore needed a consideration of case and evidence, then the *archon* or the *praetor* referred it to the decision of the *dikasterion* or *judex*.

Headlam argued that the function of the 'witnesses' mentioned in the procedural passage quoted above had been misunderstood. They had previously been taken to include witnesses whose evidence related to the final matter of dispute between the parties. If this were so, the real trial would take place before the *dikastes*

<sup>1</sup> XI 26. Cf. Diamond *ib.* 366.

<sup>2</sup> Cf., on the growing complexity of development, Diamond *ib.* 367: 'In short, there are three developments in the law of procedure. Firstly, it is becoming technical, and contains different provisions for the purpose of trying different types of disputes. Secondly, the ordeal by oath is continuing to spread from cases where the party alone has knowledge of the facts to cases where he has only special knowledge of the facts, or where the question of fact is difficult and independent evidence is difficult to obtain. Thirdly, this spread of the oath would tend to create dissatisfaction, and an attempt is made to cure opposition and defeat perjury by providing that the party must find a number of witnesses who will also swear.'



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and there would be no distinction between *krisis* and *anakrisis*. From his examination of all passages where witnesses are mentioned, he however concluded that the witnesses are not witnesses to any facts, but formal witnesses to the proper performance of processual acts: and that there is no single instance where witnesses bring evidence to settle disputed points of fact.

Other early evidence<sup>1</sup> portrays this distinction between the modern practice of using a witness to throw light on a matter in dispute and the more ancient use of formal witnesses as absolute proofs of fact, which was superseded when written contracts and written records came into existence.

Headlam also clarified the different kinds of oath procedure distinguished in the Code.<sup>2</sup> He pointed out that there are two kinds of oaths: the oath by which assertions of witnesses or of either of the parties to a suit are supported, referred to in the phrase *horkiateros* (i.e. 'on oath'); and the oath<sup>3</sup> by which, after the charge or plea has been formally established, the accused clears himself, referred to as *apomosai* (i.e. 'on oath'). When the pleas of both sides had been heard, the usual procedure was for the judge to take an oath and then decide the remaining dispute. However, in some cases, the law says that this shall be decided not by argument before a sworn judge but by the solemn oath of the accused—a procedure quite distinct from the oath by which the witnesses confirm their statement.<sup>4</sup> In all the undoubted cases where an oath ends the proceedings and is followed by a judgment, the oath is taken by the accused, and the word *apomosai* is used.

Hence, in the procedural passage quoted above, 'according to . . . oaths' (*apomoton*) must refer to the latter procedure and not to the oaths referred to under *horkiateros*. In all these cases the procedure by oath is a substitute for trial before a sworn judge.

<sup>1</sup> See Headlam's discussion, *ib.* 59-63.

<sup>2</sup> Cf. generally, Bonner and Smith *AJHA* 2, Ch. 7.

<sup>3</sup> Headlam described this as the purgatory oath common in German law, and closely akin to the *δωρος* in the *πρόκλησις* *εἰς* *δωρος* of Attic law. Cf. Diamond, *ib.* 365: 'Ordeals—which are exclusively ordeals by oath—appear to a much larger extent than in the Codes we have already examined'. Also Bonner and Smith, *ib.* 2-146: 'Trial by evidentiary oath is the result of a challenge and consists in tendering to an opponent an oath embodying his contentions, or in offering to take an oath embodying one's own contentions. It is the same sort of attempt to get the gods to settle a question which we find in the various forms of ordeal.'

<sup>4</sup> Cf. Diamond *ib.* 366.

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Once the witnesses have testified, if both pleas are established and there still remains a point of fact to settle, in some cases the law orders the judge to pass judgment at once, instead of deciding on his oath. When this happens, the judgment takes the form of the defendant clearing himself of the charge by oath, or paying the penalty required by law. Just as, in 'deciding according to witnesses', the judge is only carrying out the formality of the law, and there is no occasion for his own discretion; so that he does not have to take an oath. The procedure by oath belongs to the department of the unsworn judge, just as, at Athens, the *proklesis* takes place before the *archon* and not the *dikasterion*, and in Rome an oath, if taken, is taken before the *praetor* and not the *judex*.

But all decisions on matters of right not decided by the law, or on the amount of a penalty not ordained by the law, or on a question of fact not decided by formal witnesses or by a purgatory oath of the defendant—all these must be decided by the judge on his oath (*omnynta krinen*). The action of the judge here began where the operation of the law ceased, the judge deciding absolutely according to his own opinions, with the safeguard that he swore to decide honestly.<sup>1</sup>

<sup>1</sup> The practice of swearing judges is ancient. Cf. Bonner and Smith (*ib.* 2.132 n. 6) who, comparing the passage where Aristotle (*Pol.* 1285 b) mentions that, as judges, the kings were sometimes sworn, observe that, in each case, we are dealing with the oath of an arbitrator. Elsewhere (*ib.* 1.43) they point out that arbitration was in the interests of the aristocracy.



## XX

### SOME FURTHER TYPES OF STATE LEGISLATION

THE Gortynian Code presents us with a codification, not of law, but of laws. The form of the arrangement of the topics is significant,<sup>1</sup> dictated not by reference to legal principle, to the internal development of law, but by the external practical need of grouping together statutory legislation relating to similarity or identity of circumstances. Its various sections cover suits concerning ownership of actual or alleged slaves; rape, adultery, and the like; marriage and property rights; partition of property among children and heirs-at-law; sale and mortgage of family property; repayment of ransom; children of mixed marriages; responsibility for the acts of a slave; the heiress, regulations for her marriage, and the disposition of her property; adoption; and a variety of actions in special cases.

This list of subjects, analysed in previous chapters, does not exhaust the types of legislation with which the aristocratic governments were concerned from an early date. There are also laws which supply us with important information about other types of public legislation.

#### I. WATER-SUPPLIES

The Cretan cities, like Greek cities in general, must have been largely dependent on available water in the immediate vicinity, if not within the cities themselves;<sup>2</sup> and they would be subject to

<sup>1</sup> And common to a number of ancient codes. For the implications see Diamond, PL 26 f. (Code of Hammurabi); 38 (the Assyrian fragments); 41 and 45 (the Hittite Code); 54 (the Gortynian Code); 87 (the Hebrew Code). But cf. DHR I 442: 'On pourrait s'efforcer de substituer un ordre rationnel à l'ordre arbitraire du texte original', etc.

<sup>2</sup> On water supplies see Wycheley HGBC 198-209, and bibliography, 222 n. 1. Cf. Guiraud PFG 189-91, 469-71.

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disadvantages in bringing plentiful supplies of water from hills, more or less distant, by aqueducts. Impressive aqueducts, demanding a considerable degree of technical skill, were built in Greece before Hellenistic and Roman times, and they are familiar achievements of the tyrants. But large aqueducts were expensive to build, and also required settled conditions over an extensive area, such as would be denied to a city often at war with neighbours and subject to siege.<sup>1</sup> We should therefore naturally expect to find more modest methods associated with Crete.<sup>2</sup>

The methods of pre-Roman Greece, inevitable in a country of poor water-supply, consisted of sinking wells and cutting cisterns in the rock to collect rain-water. As opposed to public means of water-supply, such as fountains, wells and cisterns could belong to private houses; so that a plentiful supply of more or less pure water from springs must have been a decisive factor in determining the sites of villages and towns.

At Goulas, the probable site of the Cretan Lato, there is no such supply close at hand, and therefore cisterns were used, some of them public, many for private houses.<sup>3</sup> A cistern was built at Dreros in the Hellenistic period, and it is commemorated and dated by an inscription.<sup>4</sup> At Gortyna the water-supply features in the legislation of the first half of the fifth century B.C., the river water being concerned in the first of the three inscriptions which will be mentioned in this connection.<sup>5</sup>

Though details of interpretation have been disputed,<sup>6</sup> the general sense of this first inscription is clear. The citizens are allowed to divert water from the main stream for their own lands, subject to the condition that the level is not allowed to fall below a certain height at the bridge in the *agora*. This arrangement would ensure that when water was constantly being drawn off at the city, the more distant lands watered by the stream would continue to have a sufficient supply. Thus the common rights of the citizens to the river are still recognized, though a common restriction is imposed by the state.

<sup>1</sup> Wycherley *ib.* 199.

<sup>2</sup> Assuming that the aqueducts of the Minoan period had been generally allowed to fall into disuse.

<sup>3</sup> BCH XXV (1901) 300.

<sup>4</sup> BCH LXI (1937) 51. The same kind of material was used which had been used centuries earlier at Milatos and at Lato: cf. *ib.* 27.

<sup>5</sup> IC 4-43 B b.

<sup>6</sup> For discussion see Guarducci *ad loc.*; cf. Guiraud *ib.* 190.



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Launey,<sup>1</sup> commenting on the necessity for irrigation of cultivated land in countries of seasonal drought, draws attention to the care which the Greek legislators paid to the management and equitable distribution of water. Compared with the quantitative limitation at Gortyna, there was a periodic limitation at Thasos, where the water, distributed by public channels, was reserved for municipal purposes at certain times. Similar laws were no doubt enacted in most Greek cities from an early period.<sup>2</sup> At Gortyna, the other two inscriptions further illustrate the attention paid to the problem.

Part of the purport of the first of these<sup>3</sup> seems to be that the careless use of water, in such a way that it goes over a neighbour's land, is legally prohibited. An injured party can claim five drachmas daily from the person responsible.

In the second,<sup>4</sup> the law apparently ordains that, if anyone brings water over a neighbour's land, provided that he has given prior notice, he suffers no penalty, even if the water does not flow away. But if permission is not given, the person responsible must pay a drachma(?) a day. The situation is similar to that of the earlier law forbidding careless use of water over a neighbour's land, except that, in that case, negligence is the factor responsible for the greater fine.

The same inscription goes on to forbid the accumulation of refuse in the vicinity of houses<sup>5</sup>—a measure natural in the interests of public health and decency.

### 2. FUNERALS

It is hardly surprising that the early legislation includes regulations relating to the disposal of the dead. The first of three Gortynian inscriptions on the subject belongs to the earliest period.<sup>6</sup> The purport seems to be that the relatives could not avoid

<sup>1</sup> In BCH LXI (1937) 387.

<sup>2</sup> Cf. Pl. *Lg.* 844 a.

<sup>3</sup> IC 4.52 A. B.

<sup>4</sup> *Ib.* 73 A. Cf. Pl. *Lg.* 844.

<sup>5</sup> Cf. Arist. *Ath.* 50.2; SIG 313.37 f; Guarducci *ad loc.*

<sup>6</sup> IC 4.22 (mid-7th-end 6th C. B.C.). The law is brief but complete. That it relates to funerals seems indicated by the initial word, *πρόθεσις*. The alternative is to suppose that *πρόθεσις* means *πρόθεσιν*, a possibility which cannot be ruled out. Cf. Guarducci, *ad loc.* On the early Greek legislation relating to funerals see DHR I 12, where it is pointed out that laws of this kind existed at Sparta (Plu. *Lyc.* 27); Syracuse (D.S. 11.38) and in the code of Charondas (Stob. *Flor.* 44.40). The most celebrated were the Athenian, the authority for which went back to Epimenides and Solon

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the responsibility of laying out the dead, either by legal judgment or by oath.

The second inscription<sup>1</sup> concerns a general liability regarding funerals. If there is no public road, the corpse can be carried over another person's land. A fine of ten staters is imposed for obstructing this provision. If, however, a road does exist and the relatives of the deceased carry the corpse over another's land, they are liable to a fine, specified no doubt in a part of the law that has not survived.

The third inscription<sup>2</sup> ordains that, if the relatives are unwilling to carry out the appropriate lustration, a judge is to pronounce how they should arrange the matter. If they fail to comply with his decision, the judge himself is to be responsible for the lustration and, under oath, is to exact double the cost of the lustration (i.e. from the relatives).<sup>3</sup>

### 3. DAMAGES, SECURITY AND MORTGAGE, ARBITRATION

A relatively significant proportion of the surviving Gortynian legislation relates to these important topics. Some of this evidence has already been referred to in the account of the *nenikamenos* and the *katakeimenos*.<sup>4</sup>

There is a possibility that an early fragment is a law concerning things received as security.<sup>5</sup> But the provisions of the so-called Second Code provide us with the earliest information in any detail about these types of legislation.<sup>6</sup>

In the first and second columns the law is concerned with

(*Phl. Sol.* 12,21); [D.] 1070. The conclusion is made (*ib.* 14): 'Toutes ces lois étaient principalement dirigées contre les femmes, naturellement portées à exagérer les démonstrations d'une douleur véritable ou convenue. C'est pourquoi, dans la législation de Solon, les dispositions sur le deuil se rattachent étroitement à celles qui sont relatives aux processions (*ἐξοδοί*) des femmes.' So, at Gortyna, the legislation seeks to restrict responsibility to the *epiballantes*.

<sup>1</sup> *ib.* 46 B 6 ff. (early 5th C. B.C.). Cf. Köhler-Ziebarth 35 no. 4.

<sup>2</sup> *ib.* 76 B 1-7 (between 480-30 B.C.). The relatives are the heirs, *epiballantes*.

<sup>3</sup> Guarducci compares [D.] 1069; and a Coan law of the 3rd C. B.C. (Herzog *Arch. f. Religionswiss.* X (1907), 403, B, para. 4, lines 17 ff.).

<sup>4</sup> IG 4-41, V-VI; 47; Code Col. I 55-II 2; cf. IX 25 and XI 32; X 26. See pp. 36 and 54-6.

<sup>5</sup> *ib.* 30 (mid. 7th-end 6th C. B.C.). Cf. Guarducci, *ad loc.* But Halbberr (AJA I 228) did not attempt to explain it.

<sup>6</sup> *ib.* 41 I-VII (early 5th C. B.C.). See Guarducci *ad loc.* for bibliography. Cf. DHR I 392.



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damage done by animals.<sup>1</sup> The owner of an animal which has suffered injury has the right of exchanging his injured animal with that owned by another person, which caused the damage. If he does not consent to the exchange, the owner of the animal which caused the damage must pay the simple value.<sup>2</sup> (It can be inferred from the context that the animals referred to here were probably oxen.)

If the injured party does not bring the wounded animal, or produce its dead body, to show the damage to the owner of the animal which caused it, in the way prescribed in earlier legislation, no case can be made.

If a pig has wounded or killed an ox, the pig becomes the property of the owner of the ox, the amount of supplementary indemnity perhaps being assessed in a part of the law that has not survived.

The same provisions are to be observed in case of injury to a horse, a mule or an ass. If the beast is dead, or it is not otherwise possible to bring it to show the damage to the other party, the claimant must give prior notice of his intention to let it be seen by the other party, in the presence of two witnesses, wherever it may be. The injured party and the witnesses must swear that the legal procedure has been carried out.

We need not here concern ourselves with the mutilated beginning of the third column.<sup>3</sup> What follows (ll. 7-17) concerns the case where birds or beasts have been deposited in trust for use or for other purpose. If the person who has received the bird or beast cannot return it at the proper time, he is liable to pay the simple value. But if the matter comes to law, and the person who has the property in trust denies the matter, and he is convicted, he must pay double the value<sup>4</sup> as well as a fine to the state.<sup>5</sup>

The opening lines of the fourth column again give no satisfac-

<sup>1</sup> Athenian βλάβη τετραπόδων (cf. *Plu. Sol.* 24.1), and Roman *actio de pauperie*.

<sup>2</sup> I.e., presumably, of the damage inflicted, though it could mean the value of the beast. DHR (ib. 485) preferred the former interpretation.

<sup>3</sup> For a possible sense see Guarducci *ad loc.* Cf. DHR I 485 n. 4.

<sup>4</sup> Cf. IG 4.47.26 ff., and the practice of Roman law—*lis infortiatio in duplum crescit*. See DHR I 486 and n. 3.

<sup>5</sup> θίμνητι πάλι. Cf. IG 4.78.8; 79.16, 21; 84.2; 144 [15]. The public penalty was no doubt due to unnecessary inconvenience caused in the process of law, and perhaps because the denial had caused offence to the state. Cf. Athenian δόση βιάσων and δόση ἐξουλίης. The payment due to the state is not specified here or elsewhere. Either the amount was fixed, or assessed at the value of the damage paid privately. Guarducci *ad loc.*; cf. Glotz SFDG 389.

tory sense, but it may be that a fine of quadruple the value was laid down (as at Rome) for theft. The remainder concerns the provisions relating to a fugitive serf which have been discussed.<sup>1</sup> The meaning of the seventh, and final, column is uncertain, but may have been concerned with damages done by a slave.<sup>2</sup>

A fragment of a law from Knossos, not earlier than the fourth century B.C.,<sup>3</sup> is concerned with the same kind of provisions. A man who has broken the horns of an animal must pay a fine<sup>4</sup> to the owner. If a buyer wants to send back an animal which he has bought, he is allowed five days in which to do so; but he must pay an indemnity of three obols daily, in payment of working value, unless the animal is not broken into work, in which case the indemnity is waived. If the seller refuses, the buyer can send back the animal in the presence of witnesses.

A fragment of a Gortynian law relating to procedure<sup>5</sup> lays down the intervals prescribed in certain cases before judgment must be given. In a dispute concerning boundaries, a delay of fifteen days is allowed, presumably to allow the necessary investigation to take place. If the period was exceeded, the judge could be legally punished, just as if he had refused to carry out the process of law, unless public service or family mourning excused the delay.

But the judge of the *hetaireia*, or the judge concerned with securities, had to act more urgently. They were bound to give judgment on the same day as the parties appeared, or at latest on the day after.

A rather later fragment<sup>6</sup> is concerned with the same type of procedure, except that an arbitrator, and not a judge, is the subject of the regulation. The fragment is important if only because it is the only Gortynian law certainly relating to private arbitration. The arbitration is referred to, not by a technical name, but by a paraphrase.<sup>7</sup> The permissible delay before judgment is

<sup>1</sup> See p. 50.

<sup>2</sup> Cf. DHR I 397 and 488 with Guarducci *ad loc.*

<sup>3</sup> So DHR I 398. About 3rd C., Guarducci *ad loc.* IC I.VIII.3 B.

<sup>4</sup> Of five *λίσθηται*. This has naturally caused controversy. Cf. DHR I 436 f. and Guarducci *ad loc.* The irregular order of the provisions suggests re-copying, which would explain the late occurrence of *λίσθηται* for payment.

<sup>5</sup> IC 4.42 B (early 5th C. A.D.). Cf. DHR I 399 and 490. Further bibliography, Guarducci *ad loc.*

<sup>6</sup> *Ib.* 32 (c. 480-50 A.D.). Cf. DHR I 400, 430, 491.

<sup>7</sup> Viz. *ὁ ἀπὸ τῆς ἀρχῆς ἀπὸ τῆς ἀρχῆς*. We do not know the technical term, although Comparetti believed that this might be the *μὲν πρῶτον*, i.e. *μὲν πρῶτον*, of the archaic inscription IC 4.21.2 (mid. 7th-end 6th C. A.D.). Perhaps he was called *δικαστής*; however: cf. Guarducci *ad loc.* For Athens cf. D.545.



## THE STATE

pronounced is three days. The arbitrator must pay cost, if this period is exceeded, to the party requesting arbitration. It seems that arbitration could be requested by either or both parties.

The illegal seizure, as security, of person, crops or personal clothing and ornaments, was the subject of earlier legislation than the Code, of which some portions remain.<sup>1</sup> But when such an offence has been committed against an unfree person, man or woman, only half the penalty for seizure of the person, and one third for seizure of clothing or ornaments, was payable, compared with compensation due to a free person.<sup>2</sup>

In a further section, certain lands are mentioned, belonging to the state, which it has leased for cultivation. The sale or mortgage of these lands is declared to be illegal.

A fragment of a law, of which two copies appear to have survived,<sup>3</sup> is concerned with the illegal seizure of trees, houses and possessions which do not belong to the debtor. A clear distinction is made between a seizure carried out in the country, and a seizure of a house in the town. It may be that in both cases the occupying serfs were intended to be protected against being involved in sequestration of a master's property.<sup>4</sup> In the first case, a preliminary measuring of the holding or estate is implied, and the suit is to be settled by oaths, including the oaths of the nine nearest neighbours, and of the disputants, the one for whom the majority of the nine neighbours swear, wins the suit. In the second case, three of the nine neighbours are to take the oath to settle the issue.

Why are nine neighbours and then three of nine neighbours specified? Three of nine neighbours are obliged to swear to the same effect, in the second case. In the first case, no number is specified, but the matter is settled by majority oath. The second case would be easier to settle, the first more difficult because it involved land boundaries. But the specification of nine and three in the same context leads us to suppose that these numbers were not fortuitously selected; nor is it likely that nine was selected merely because it was an odd number.

Since it is impossible to conceive of holdings of such a shape

<sup>1</sup> IC 4.43 (early 5th C. a.c.), with bibliography.

<sup>2</sup> Cf. Code Col. 1, where the illegal seizure of free and unfree persons meets with the same disproportionate penalty.

<sup>3</sup> IC 4.75 A and B (c. 480-50 a.c.). Bibliography *ad loc.*

<sup>4</sup> Halliher AJA I (1897) 213. Cf. p. 49.

## FURTHER TYPES OF STATE LEGISLATION

that they could have common boundaries with nine others, even if the matter could be settled by such fanciful geometry, the explanation must be sought elsewhere. In view of the many indications that nine was a sacred number in Minoan-Mycenaean religion, it may be that the number was chosen, not for functional, but by virtue of traditional associations.<sup>1</sup> Or it may be that here we have a further indication that the tribal divisions of land made by the Dorian immigrants were still preserved.<sup>2</sup>

The second column of the first<sup>3</sup> of the inscriptions mentioned above was probably concerned with the items of property of a free man which could not be seized as securities. The prohibited items included his arms,<sup>4</sup> the loom, the wool, the iron tools, the ox-yoke, the plough, the hand-mill stones, such utensils as he might have deposited in the *andreion*, and the marriage-bed, besides perhaps clothes and personal adornments. The uncertainty of its context apart, the list is of importance and interest as constituting the normal possessions of a free person at the time in Gortyna.

The third column of the same inscription deals with the case of a man who is so prevented by old age or other reasons that he cannot himself go to a place to make a seizure of securities. He is allowed, under such circumstances, to appoint a deputy who is legally empowered to make the seizure on his behalf. The presence of a public official was apparently considered unnecessary.<sup>5</sup>

A number of other inscriptions<sup>6</sup> may concern debtors, but their content is so fragmentary or uncertain that they add little of value to our knowledge.

<sup>1</sup> Cf. Thomson GC 64.

<sup>2</sup> At Kos the bull sacrificed to Zeus Polieus was selected from twenty-seven bulls presented by the tribes, three from each *ἐνία*. At Sparta nine huts were built for the Karneia, each accommodating nine men, three from each phratry. Thomson *ibid.* citing SIG. 1025 and Ath. 141 c-f.

<sup>3</sup> I.e. IC 4.73 B.

<sup>4</sup> Most Greek legislation supported this prohibition, according to D.S. I.79.5: *ὅπλα μὲν καὶ ἄρματα καὶ ἄλλα τῶν ἀναγκασιωτάτων ἐκείλυσαν ἐνέχοντα λαβεῖν πρὸς δόσεις*. Whether all the other items in the list were as certainly excluded is doubtful. Cf. Quint. 6.8.4; Theodor. 2.30.1; Just. 3.16.7; Guarducci *ad loc.*

<sup>5</sup> The method was not unusual. Cf. DHR I 337 n. 1.

<sup>6</sup> IC 4.83, 85, 86, 91, 102 (c. 480-50 B.C.).





PART FIVE

THE WIDER CONTEXT

but strict Fate had cast too deep  
Her dark foundations, and too fast had bound.

MILTON





## XXI

# INTERNAL AND EXTERNAL RELATIONSHIPS OF THE STATES

### I. THE CRETAN KOINON

HAVING examined the legal, social and political institutions of the states, and the relatively stable economic basis which supported these institutions, we must now turn to a general consideration of the relations of the states to one another in Crete itself; and also to seek an explanation for the continuing traditional aristocratic character of Cretan society, despite the close and complex relations with very different foreign communities which developed in the Hellenistic period.

The geographical conditions which helped to foster the growth of so many autonomous Cretan cities were also a potent factor operating against natural or enforced unification. Though Strabo<sup>1</sup> could refer to Knossos, Gortyna and Kydonia as the greatest and most famous of the cities, he tells us that Knossos and Gortyna had to co-operate to ensure the subjection of the remainder; and that, when they quarrelled, there was strife throughout the island. Neither of the two most powerful cities could ever command the necessary economic and military resources to advance a stable dominion beyond the mountain barriers which alike protected and circumscribed their respective spheres of influence. These spheres of influence would, as we have seen, include any communities reduced to perioecic subjection. The autonomy of other lesser cities was ensured partly by the uneasy balance of power between Knossos and Gortyna, since, as Strabo implies, this balance was preserved because the dominant cities sought the alliance of the lesser; partly because the need to control the serfs on the land which formed the chief economic resource at the disposal of each autonomous city must have been a further powerful factor, allied to geography, operating in favour of decentralization. The fact that periods of peace were of short duration, from

<sup>1</sup> 10.470.



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the end of the fourth century to the Roman conquest, is a stern reminder that war between states was the price of autonomy dependent on balance of power. The ruling citizens of the cities were united and divided by the economic system they sustained.

This central and unresolved contradiction between mutual interest and mutual hostility of the ruling classes becomes more marked with the onset of the Hellenistic period. Our information from this period shows the development of a further contradiction which complicates and intensifies the first. Cretan isolation is broken down, and the island becomes, in a special way, closely related to the general economic and historical development of the Hellenistic world. The cities enter into diplomatic and military agreements with foreign powers, publish proxeny decrees, introduce, in some cases, foreign political terms. The fear of social revolution, which had appeared already elsewhere in the fourth century,<sup>1</sup> of a social revolution which developed its four-point programme of abolition of debt, division of land, confiscation of personal property and liberation of slaves to assist its progress, finds its echoes also in Crete with the Italian oath of the third century—though, significantly, the fourth point of the programme is dropped.<sup>2</sup>

The extension of the Federal principle, marked by the union of smaller states into various types of *koinon*, which is so characteristic a feature of the Hellenistic period,<sup>3</sup> also affected Crete. A third-century inscription from Lisos,<sup>4</sup> in Western Crete, records a treaty between the Oreioi<sup>5</sup> and King Magas of Cyrene. The Oreioi—‘The People of the Mountains’—were a group of neighbouring cities which included Poikilasion, centred on Lisos, and forming a *koinon* with common religious, as well as political ties, and a common coinage.<sup>6</sup> It has been plausibly suggested that a loose confederation might have existed in the ‘Eteocretan’ district of Eastern Crete in the third century.<sup>7</sup>

But the history of the vicissitudes of the Cretan *Koinon* itself

<sup>1</sup> Tarn and Griffith HC 121, citing D. 746.149, Isoc. *Archidamos* 50, 64 ff., Aen. Tact. 14.1 *et passim*; and for the programme [D.] 215.15; SEG 1.75, col. 1, line 28.

<sup>2</sup> See pp. 128, 184–5.

<sup>3</sup> Cf. Tarn and Griffith *ib.* 68–78.

<sup>4</sup> IC 2.XVII.1.

<sup>5</sup> The name was known also to Pto. (4.53.6).

<sup>6</sup> Cf. Guarducci *ad loc.*; Van Effenterre CMG 120–6. At the time of the treaty the *koinon* was allied to Gortyna.

<sup>7</sup> Van Effenterre *ib.* 126–7, basing his evidence on the inscriptions IC 3.II.1 and *ib.* IV.1.

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chiefly exemplifies the Hellenistic impulse towards federation as it was manifested in Crete, and the highly unstable character of such federation as was possible there in the prevailing conditions. In his study of the Cretan *Koinon*, Van der Mijnsbrugge suggested that its origin was very probably to be sought in the so-called *synkretismos* which occurred in ancient times when the independence of the island was endangered by foreign enemies.<sup>1</sup> We shall have to return to his conclusion that the Cretan *Koinon* was an ancient institution.<sup>2</sup> He went on to differentiate between this ancient *synkretismos* and the *Koinon* of the extant sources of the historical period, which, in his opinion, had to be considered independently, because it was restored at times when no foreign enemy threatened the independence of Crete.

The Cretan *Koinon* is mentioned in thirteen inscriptions before the Roman conquest.<sup>3</sup> The *Koinon* may also be intended in a number of sources which use the formula *πάντες Κρηταίς* or something

<sup>1</sup> CK 57, citing Plu. *De frat. am.* (490) 19 b: *μυροβρατον αὐτὸ γοῦν τοῦτο τὸ Κρητῶν, οἱ πολλὰς στασιάζοντες ἀλλήλοις καὶ πολέμοινας, ἔξωθεν ἐπύρτων πολέμων διελόντο καὶ συνίστατο· καὶ τοῦτ' ἦν ὁ καλούμενος ὅπ' αὐτῶν συγκρητισμός;* and also RM: *συνκρητισμὸν λέγουσι οἱ Κρήτες, ὅταν ἔξωθεν αὐτοῖς γένηται πόλεμος: ἐστασίαζον γὰρ δαί.*

<sup>2</sup> *Ibid.* Cf. Cardinali RF 35 (1907) 17 n. 2; also Muttelsee ZVK 44.

<sup>3</sup> Eleven were listed and discussed by Muttelsee, ZVK 41-2, and by Van der Mijnsbrugge, CK 14-15. Two others, one from Lappa, published by Guarducci (IG 2.XVI.9), the other from Oropos (*Agz. Ep.* 1925-6, pp. 9 ff., no. 129, 3), are added by Van Effenterre in his list, CMG 128-9. The thirteen are:

(i) IG XII.5.868 A, lines 11 (= IG 2.XVI (Lappa) 2); lines 15 f. and 17 f. *aglaia* for the sanctuary of Poseidon and Amphrité at Tenos recognized by several cities of the Cretan *Koinon*. End 3rd C. a.c.

(ii) SIG 560, lines 10-12. Decree of the Epitamnians concerning the *aglaia* of Magnesia on the Maeander and the festival of Artemis Leukophryene. The Magnesians praised for services to the Cretan *Koinon* in putting an end to internal war. 207/6 a.c.

(iii) Kern *Die Inschriften von Magnesia am Maeander* 16 no. 20. Fictitious decree dealing with the foundation of Magnesia on the Maeander, presented as if by the Cretan *Koinon*, with the purpose of confirming the legend that Magnesia was founded by Cretans. About 207/6 a.c.

(iv) IG 2.XVI (Lappa) 9. Proxy decree of the Cretan *Koinon* in favour of a Megalopolitan. Early 2nd C. a.c.

(v) IG 2.V (Axon) 22. Mutilated fragment of a decree of the Cretan *Koinon*. 2nd C. a.c.

(vi) SIG 653 A. Proxy decree of the Cretan *Koinon* in favour of Kassandros. About 165 a.c.

(vii) Durrbach *Choix d'inscriptions de Délos*, 1517, lines 2 and 31-2. Decree of the Cretan mercenaries in the service of Ptolemy VI Philometor, king of Egypt. The soldiers have been sent to Alexandria by the Cretan *Koinon*; but it is likely that each member state was obliged to send troops in accordance with a treaty between the *Koinon* and Ptolemy. For mention is made of embassies sent to Aglaos of Kos, a high



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similar;<sup>1</sup> and it is possible to assume its existence in other evidence of collective Cretan action.<sup>2</sup> A number of conclusions about the *Koinon*, drawn from this evidence, may be regarded as firm.<sup>3</sup>

The *Koinon* was an accepted kind of loose federal organization in the Hellenistic period, in which the dominant part was played by Gortyna and Knossos. It had a Council, consisting of delegates from the various member states, who were called *synedroi*. There was also a popular Assembly in the *Koinon*, which was called τὸ κοινὸν or τὸ πλῆθος τῶν Κρηταίων, and which consisted of the citizens of the member states. The decrees of the *Koinon* were issued by the *synedroi* and the Assembly in conjunction. The *Koinon* met in different places, for example Knossos or Bilkon(?), perhaps Axos, Priansos or Lappa.

But the Cretan *Koinon* had characteristics which differentiated official in the service of Ptolemy, from the states to which the mercenaries belonged. Between 158 and 150 a.c.

(viii) SIG 654 A, line 5. Decree of the Knossians and the Cretan *Koinon* in honour of the Athenian Hegesandros. About 151 a.c.

(ix) *Agz. Ep.* 1925-6, pp. 9 ff., no. 129, 3. Decree of the Knossians and the Cretan *Koinon* in honour of someone unknown. About 151 a.c.

(x) IC 2.III (Aptera) 4, C 3, line 3 ff. Decree of Aptera in honour of Attalos of Pergamon for his solicitude towards the Cretan *Koinon* and particularly Aptera. The date is in dispute, since it is not clear whether Attalos I, 241-197 a.c. (so Dittenberger, Guarducci, Van Effenterre), or Attalos II, 159-138 a.c. (so Haussoullier, Michel, Blasi, Serizel), is intended.

(xi) IC 3.IV (Itanos) 9, lines 107-8. Judgment of the Magnesians in a dispute between Itanos and Hierapytna. Reference is made to the Ptolemaic control of Itanos approved by the Cretan *Koinon* towards the middle of the 2nd C. 112/111 a.c.

(xii) IG XII.3.254 = IC 4.197 (Gortyna). Decree of the Councillors and Assembly of the Cretans—([*Ἐδο*]σε τοῖς συνέδοις καὶ τῷ[ι][κοινῷ] τῶν Κρηταίων)—concerning the *epheia* of Anapha. 2nd C. a.c.

(xiii) IC 1.XXIV (Priansos) 2, lines 24-5. Decree of the Cretan *Koinon* in honour of Epikles of Samos, and the Samians. 2nd C. a.c.

<sup>1</sup> SIG 335, line 12 (Athenian decree for Eumarkidas of Kydonia); SGDI 5157-5164 (Fragments of decrees of Mylasa relating to Crete); Deiters RM 59 (1904) 565 ff., line 13 (Gortynian-Magnesian agreement of 196/5 a.c.); Plb. 7.11.9 and 14.4 (Pacification of the island by Aratos in 216 a.c.); Plb. 29.10.6 (Rhodian embassy in 168 a.c.); IC 2.III (Aptera) 10 A, line 4 (Decree of Aptera in honour of Polykles of Paros); *Choix d'Inscr. Delas* 1517, line 19 (Decree of Cretan mercenaries regarding Aglaos of Kos); IC 3.IV (Itanos) 9, line 23 (Magnesian arbitration between Itanos and Hierapytna). Cf. Muttelbee ZVK 42 and Van Effenterre CMG 130.

<sup>2</sup> As suggested by Van Effenterre, *ibid.*: namely, Liv. 43.7 (Cretan-Roman negotiations of 170 a.c.); Plb. 33.16.1 (Embassy of Antiphantos to the Achaeans in the second Cretan-Rhodian war); D.S. 40.1 (Negotiations with Rome in 70 a.c.); cf. Cic. *De imp. Cn. Pompe.* 16.49, where Van Effenterre regards 'a communi Cretensium' as a transcription of *παρὰ τοῦ κοινῶ τῶν Κρηταίων*.

<sup>3</sup> The conclusions were drawn by Van der Mijnsbrugge CK *passim*. Cf. Van Effenterre CMG 131-2.

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it from such federal leagues of the period as the Achaean League.<sup>1</sup> Though the *Koinon* granted *asylia* and honours to foreigners, our sources give no proof of the existence of Cretan citizenship, of a federal army<sup>2</sup> or of federal magistrates.<sup>3</sup> In the sphere of foreign policy, the individual member-states of the *Koinon* enjoyed considerable independence and were not automatically bound by confederate policies.<sup>4</sup>

It would be incorrect to ignore the contemporary Cretan conditions, and in particular the jealous autonomy of the more powerful states, as being in part responsible for these unique features of the *Koinon*. But it is equally incorrect to consider the *Koinon* as we know it from our Hellenistic sources independently of the ancient so-called *synkretismos*, on the ground that it was restored, in the later period, at times when no foreign enemy menaced the independence of Crete.<sup>5</sup> For the view that menace from abroad was responsible for the original institution may be no more than the guesswork of a later period, to account for the tradition of an early confederacy of some kind. It is certainly in marked contrast with the emphasis placed by Aristotle on the recent phenomenon of an invasion of warfare from abroad; so that it is necessary to seek elsewhere for an explanation of the tradition.

<sup>1</sup> Cf. Tarn and Griffith, HC 73-6, on the Achaean League; and the remark, *ib.* 68: 'It is unfortunate that Greeks only possessed one word for almost every form of public and private association; they would have applied *koinon* equally to the League of Nations, the Swiss Republic, a Cambridge College, a Trade Union, and the village cricket club; and it is too late now, in translating it, to avoid various improper uses of the word *League*'.

<sup>2</sup> The decree of the Cretan mercenaries in the service of Ptolemy VI (Durrbach *loc.*) certainly gives no justification for speaking of a federal army, and it is doubtful if we can rightly speak of federal contingents, since the assumption is that the member states sent mercenary troops of their own volition, thus implementing the agreement made by the *Koinon* with the king. Cf. Van Effenterre CMG 132, and Van der Mijnsbrugge CK 28.

<sup>3</sup> Documents are dated by reference to *proklasmoi* of Gortyna and Knossos. There were no federal magistrates to carry on diplomatic negotiations.

<sup>4</sup> In the decree of the Cretan mercenaries, embassies to Aglaos are mentioned from the states to which the mercenaries belonged—and not from the *Koinon*. Eumenes II made a treaty, in 183 B.C., with each member state of the *Koinon* separately (SIG 627). The Rhodians followed a similar course in their negotiations in 168 B.C. (Pib. 29.10.6).

<sup>5</sup> Van der Mijnsbrugge (CK 58) dated the first certain restoration of the *Koinon* to 221 B.C., relying on the evidence of Pib. 4.53.4. Cf. also Swoboda GS 2.740. Kirchner (*Gött. gel. Anz.* 1900, 453) preferred 216 B.C. Cf. Guarducci, IG I p. 49; 4 p. 277; Muttelee (ZVK 43 ff. and 63) placed the foundation of the *Koinon* between 250 and 225 B.C. Van Effenterre (CMG 132-8) also prefers the third quarter of the 3rd C., basing his argument on a re-examination of SIG 535-7 and IG XII.5.867 f.; cf. IG XII suppl. 304.



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The Dorians, as the latest arrivals—compared with the Aeolians and Ionians—of the three branches of the Greek race associated with the three main dialects, have left the fullest traces of their tribal traditions. Coming from the highlands of Doris in Central Greece,<sup>1</sup> they moved into Southern Greece at the end of the second millennium B.C. Their migrations extended over the east and south of the Peloponnese and overseas to the southern Cyclades, Crete, Rhodes, and the Carian coast. When they arrived in Greece they were a League of three tribes, consisting of the Hylleis, descended from Hyllos, son of Herakles; the Dymanes, who worshipped Apollo; and the Pamphyloi, 'those of all tribes', who worshipped Demeter.<sup>2</sup> It can be inferred, from the name of the third tribe and the three tribal cults, that the Dorian League was an artificial construct, similar to the *Populus Romanus*, formed in Central Greece under the influence of the prehistoric cultures of Delphi and Boeotia.<sup>3</sup> When they settled down in the Peloponnese or overseas they held firmly to their tribal organization. Though all the tribes may not have taken part in every migration overseas, and though their tribal organization may have been temporarily thrown into confusion, it was re-established on traditional lines when they settled down again. Hence the evidence for the three tribes in most Dorian settlements.<sup>4</sup> We have seen how enduring were the tribal customs and institutions in Crete. So were the Dorian tribal names. For the Hylleis were at Kydonia,<sup>5</sup> and are mentioned at Lato at the end of the second century B.C.;<sup>6</sup> the Dymanes are recorded at Lyttos in 249 B.C.,<sup>7</sup> at Hierapytna in the second century B.C.,<sup>8</sup> at Gortyna in the third<sup>9</sup> and second<sup>10</sup> centuries B.C.; the Pamphyloi at Knossos and Olous (?) round about the second century B.C.,<sup>11</sup> and at Hierapytna in the late second or early first century B.C.<sup>12</sup>

The population of Crete was undoubtedly of very mixed origin and of equally mixed speech at the time of the supremacy of the

<sup>1</sup> Str. 10.473-6; cf. 8.383; Hdt. 1.56; Paus. 5.1.2.

<sup>2</sup> Paton and Hicks *Inscr. Cr.* 341; Meillet AHLG 96.

<sup>3</sup> Thomson SAGS 102-3.

<sup>4</sup> But they appear not to have been established at Telos (IG XII.3.38). The Dymanes migrated by themselves from Troizen to Halikarnassos (St. B. *Ἀλιεργασίας*).

<sup>5</sup> Hsch.: *Υἱὸς τοῦ Κρήτη Κυδωνίαι*.

<sup>6</sup> IG I.XVI.26, 32.

<sup>7</sup> IG I.XVIII.8.

<sup>8</sup> IG 3.III.9.

<sup>9</sup> IG 4.165.

<sup>10</sup> *Ib.* 182; 197.

<sup>11</sup> IG I.VIII.14; XXII.8.

<sup>12</sup> IG 3.V.1.

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Achaean in the Greek world.<sup>1</sup> But the later evidence testifies to the supremacy of those whose language was Doric Greek.<sup>2</sup> The Cretan, more specifically the Central Cretan, dialect was the dialect of Gortyna, Knossos, Lyttos, Axos and the other cities of Central Crete. At Olous, Dreros, Lato and other cities to the eastward, the dialect was less uniform. In such cities of the eastern extremity as Hierapytna, Praesos and Itanos, and such cities of the western extremity as Aptera and Kydonia, many of the more peculiar Cretan characteristics were entirely absent. But this may well be due to external influences, more particularly the Attic and Doric *koiné* influences of the other islands. Hence the probability that more ample evidence from the earlier period would show that 'in the main the characteristics of Central Cretan were also general Cretan'.<sup>3</sup>

Hence, Cretan Doric will have been the language of the rulers of the cities, as is confirmed by the epigraphic record. True to tradition, the Cretan military aristocracies preserved their tribal institutions and adapted them to changed conditions. A common language helped to keep common traditions alive in spite of the dispersed settlement of the tribal bodies into many separate city-states. However obscure the details of this settlement, we can be sure that its accompanying dangers and likely conflicts would not lessen the need for the conscious fostering and the practical advantage of tribal solidarity. If the Dorians had formed themselves into a League during their migration into Greece, necessity and precedent make it unlikely that they abandoned this confederate organization during their migration over Crete.

For they would have to stand together against those whose power they had usurped and those whom they had made their serfs; and the basis of their League would be their bond of kinship, expressed through the medium of their common language. From the Homeric evidence it can be inferred that the formal deliberations of this League would require the presence of the assembled people, mustered by tribes. The inference is supported by the

<sup>1</sup> Od. 19.173-7; ἄλλη δ' ἄλλη γλῶσσα μεμιγμένη· ἐν μὲν Ἀχαιοί, | ἐν δ' Ἑτεόκοιτες  
μεγαλήτορες, ἐν δὲ Κόδυρες, | Δοκίμης τε τοιχίδες διότ τε Πηλεοποι. Cf. Str.  
10.475.

<sup>2</sup> I follow Buck's analysis of the Cretan dialect in GD 153.

<sup>3</sup> Buck *ibid.* The Eteocretan inscriptions from Praesos (IG 3.VI.1-6) form the major exception. But the problem they present is still unsolved. See discussion and bibliography, Guarducci *ad loc.* Cf. Demargne CID 102-3.



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late evidence of the second-century decree concerning the *asylia* of Anaphe, which was ratified by the Councillors and the Assembly of the Cretans.<sup>1</sup> For, elsewhere, 'the principal new feature in federal institutions of the second century is the tendency to dispense with the primary assembly which had been the legacy from the city-state, and to rely instead on an assembly or council of representatives (*sunedrion*), like a modern parliament'.<sup>2</sup>

Other novel features of the *Koinon* tend to confirm its dependence on archaic, rather than contemporary Hellenistic precedent. In two inscriptions we find mention of a *koinodikion* and Polybios informs us that there was a *koinodikaion* in Crete.<sup>3</sup> Most scholars have considered the *koinodikion* to be a common or federal tribunal.<sup>4</sup> A few others have interpreted it as a kind of *ius commune*, a Cretan federal law.<sup>5</sup> If we modify this latter view by thinking in terms rather of mutually agreed federal custom, traditionally based upon the ancient practice of submitting disputes to the arbitration of a tribal confederacy in the early period, there is much to be said in its favour. For, in the first of the inscriptions referred to above, a treaty between Hierapytna and Priansos, it is established that outstanding disputes are to be settled in a court agreed upon by both states, when they cannot be submitted to *koinodikion*.<sup>6</sup> That the authority of *koinodikion* could still be invoked is clear not only from the other two references cited above, but also from the evidence we have concerning the *diagramma* of the Cretans which has been rightly associated with the conception of *koinodikion*.<sup>7</sup>

There seems to be little doubt that the *diagramma* was an accepted code of rules, with a prescribed list of fines for private

<sup>1</sup> IG 4.197.

<sup>2</sup> Tarn and Griffith HC 76.

<sup>3</sup> IG 3.III.4 (Hierapytna): early 2nd C. a.c.; *ib.* 4.197 (Gortyna): 2nd C. a.c.; Pib. 22.15-4. Cf. *Inscr. Perg.* 1.163 A, col. II 3 f.

<sup>4</sup> See the review of opinions by Van der Mijnsbrugge, CK Ch. IV. Cf. Guarducci, *Epigraphica* II (1940) 162; Van Effenterre CMG 145-50. Van der Mijnsbrugge's own view that the *koinodikion* was a contract of arbitration, a *conditio sine qua non* of membership of the *Koinon*, is rejected by Guarducci and Van Effenterre.

<sup>5</sup> Caillmer in Daremberg-Saglio *s.v.* *Cretensium res publica*. Cf. Perrot *ib.* *s.v.* *Cretarcha*; Van Effenterre CMG 148.

<sup>6</sup> *ἀφ' ὧ τὸ κωινωδικίον ἀνέλεγε χάριν*: line 39. But cf. Van der Mijnsbrugge CK 40 and n. 2.

<sup>7</sup> The *diagramma* is mentioned in the following inscriptions: IG 1.XVI.1 (treaty between Lato and Gortyna: end 3rd C. a.c.; cf. IG 4(169)), *ib.* 3.III.4 (treaty between Hierapytna and Priansos: early 2nd C. a.c.), *ib.* 4.174 (treaty between Gortynians and Hierapytnians with the Priansians: early 2nd C. a.c.) and *ib.* 4.197 (the decree of the *Koinon* concerning Anaphe).

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international offences. 'It must be remembered . . . that the prescription of the Cretan *diagramma* is surprisingly general. No indication whatever is given about a court before which the international difficulties should be brought. The states are left quite free to determine themselves in which way they shall bring about the settlement of their differences. The application of the *diagramma* then must be regulated by arbitration treaties called: *σύμβολα*.'<sup>1</sup>

The extant arbitration treaties of the Cretan cities have often been discussed. Although it is not one of those which alludes to the *diagramma*, the treaty between Knossos and Tylisos conducted by the arbitration of Argos about 450 B.C. is among the more interesting and important.<sup>2</sup> It is singled out for mention here because it is an early document which has marked similarities with the many later treaties between the Cretan cities.<sup>3</sup> Regulations are agreed in the treaty concerning the calendar, the right to hold real property, the seizure of land for debt, frontiers, religious observances, the disposal of booty taken in war, mutual help in diplomatic negotiations and mutual rights of hospitality.

Argos had close ties with Crete and was linked with Knossos and Tylisos by bonds of tradition, cult and language.<sup>4</sup> Its authoritative intervention in this case of arbitration affords an analogy with the authority of the *koinodikion* and the sanctions of the *diagramma*, if these were indeed dependent on the traditional bonds of kinship consolidated in a Cretan Dorian League, later remembered as the *synkretismos*, and still exerting an influence in the *Koinon* of the Hellenistic period to an extent that helps towards an understanding of its more conspicuous peculiarities. These may be accounted for if we regard the *Koinon* as an archaic institution which was fighting a losing battle with the aggressive autonomy of the states. For the federal institutions attested by the inscriptions can be reduced to two, both of them more honorific than symbolic of genuine confederate power: *asylia* and proxeny rights. The independence of its component states and their apparent right of free secession are in keeping with the absence of federal magistrates and any kind of central organization.<sup>5</sup>

<sup>1</sup> Van der Mijnsbrugge CK 53. Cf. Van Effenterre CMG 143; Guarducci *Epigraphica* II (1940) 166.

<sup>2</sup> IG I.VIII.4; cf. Tod IAAG 33 and GHI I 59.

<sup>3</sup> Cf. Vollgraff in BCH XXXVII (1913) 286.

<sup>4</sup> Cf. Guarducci IG I pp. 58 and 308; Tod GHI I 63.

<sup>5</sup> Cf. Van Effenterre CMG 148-9.



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It is profitable to compare, in this connection, the Aetolian and the Cretan Leagues. 'As the Aetolian League expanded, any country that joined was dissolved into, and joined as, separate cities or units. If a new unit adjoined League territory, it entered into sympolity with Aetolia, that is, its people became for all purposes Aetolians, and attended the Assembly. But a city at a distance became an ally and entered into isopolity, an exchange of citizenships; its citizens became *potentially* Aetolians, but their potential Aetolian citizenship only became actual if they settled in, and (as they had the right to) became citizens of, some city of the Aetolian sympolity.<sup>1</sup> In the case of Crete, the practice of *isopoliteia* between states is well attested, especially in the second century B.C.,<sup>2</sup> but we have no reason to suppose that there was *koinopoliteia*.<sup>3</sup> The absence of a central authority, and the inability of a single state to assume such authority, precluded any such development.

So far, the reasons offered for regarding the characteristics which distinguish the Cretan from other Leagues of the period as arising from the traditional influences of an archaic tribal confederation have been hypothetical. There is, however, one piece of contemporary factual evidence which supports the argument. In the decree of the Epidamnians of 207/6 B.C. the Magnesians are praised for their help in putting an end to what is termed 'inner-tribal warfare' in Crete.<sup>4</sup>

The *Koinon* then still allowed the Cretans to present a certain homogeneity to the outside world and in the sphere of diplomatic relations; and some utilitarian advantages fostered its survival in the changed conditions that emerged in the Hellenistic period. But the mutual rivalry of the city-states represents the reality that constantly disrupted this appearance of Cretan unity, from the middle of the fourth century onward.

### 2. WAR AND DIPLOMACY

The war of 343 B.C. was a prelude and portent of that chronic warfare which continued to ravage the cities, and which makes

<sup>1</sup> Tarn and Griffith HC 71-2.

<sup>2</sup> Cf. Guarnacci IC *passim*; Van der Mijnsbrugge CK 56; Muttelsee 62-4; Van Effenterre CMG 154-6.

<sup>3</sup> Cf. Van der Mijnsbrugge's criticism of the contrary view of Muttelsee and Swoboda CK 33 n. 2.

<sup>4</sup> SIG 560 line 12: δι[σ]λέσαντες τὸν ἐμφύλιον πόλεμον.

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manifest the protracted crisis of the Cretan system, for which the Cretans found palliatives but no solution. Temporary stability and the consequent operation of the lingering traditions of the *Koinon* were achieved only when the leading states were not at war. When they were at war, the embroilment of their allies became a consequence; and the occasion of internecine war was also the opportunity for foreign intervention.

In 343 B.C.<sup>1</sup> the Knossians called upon the services of the Phocian mercenary Phalaikos and took Lyttos by assault. Phalaikos and his mercenaries were defeated with the aid of the Spartan Archidamos who restored to the Lyttians their native land. Phalaikos himself was subsequently killed in the attempted siege of Kydonia.<sup>2</sup>

Ten years later, the Spartan king Agis sent an expedition to Crete, prompted, in all probability, by the need to offset Macedonian influence in the island. It appears that Knossos, Gortyna and Kydonia were sympathetic to the cause of Macedon, Lyttos to Sparta.<sup>3</sup>

In the decades preceding the Chremonidean War there are renewed indications of Spartan influence.<sup>4</sup> Thus, Kleonymos was the mediator in a treaty between Phalasarna and Polyrrhenia, agreed upon either towards the close of the fourth, or more probably in the third century, before 275 B.C.<sup>5</sup> King Areus, who led the successful revolt of Greece against Antigonos Gonatas, intervened in Crete on behalf of the Gortynians, who were at war, in 272 B.C.<sup>6</sup> At about the same time the Polyrrhenians dedicated a statue to him.<sup>7</sup> In the absence of Areus, Sparta was attacked by Pyrrhos, and it is significant that the Spartans should have formed the intention of sending their women to Crete, a plan which was, however, opposed by the women themselves, who preferred to stay.<sup>8</sup> It was the Cretan Oryssos, of Aptera, serving with the Spartan army, who killed the son of Pyrrhos.<sup>9</sup>

In the following decade, Egyptian influence began to spread,<sup>10</sup> and the Ptolemaic occupation of Itanos is in evidence.<sup>11</sup> Ptolemy

<sup>1</sup> D.S. 16.62.

<sup>2</sup> *Ib.* 63.

<sup>3</sup> Arr. An. 2.13.6; D.S. 17.48; Tod GHF 2.273 no. 196 = SEG IX.2; Van Effenterre CMG 246.

<sup>4</sup> Cf. Kolbe in H 51 (1916) 338.

<sup>5</sup> IC 2.XI (Dictynnaeum) 1.

<sup>6</sup> Plu. Pyrrh. 27.

<sup>7</sup> IC 2.XXIII.12 A.

<sup>8</sup> Plu. *ibid.*

<sup>9</sup> Plu. *ib.* 30.

<sup>10</sup> Beginning 270-65 B.C. Van Effenterre CMG 248 n. 4. Cf. Griffith MHW 132, on Theoc. XVII 85 ff. where Crete is not mentioned.

<sup>11</sup> IC 3.IV.2-3; cf. 4-5; 9; 14; 18; Guarducci *ad loc.*



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III (247–221 B.C.) was honoured at Eleutherna<sup>1</sup> and at Phalasarna.<sup>2</sup> Other cities, such as Rhithymna,<sup>3</sup> Aptera,<sup>4</sup> Dreros<sup>5</sup> and Olous,<sup>6</sup> were also associated with Egypt.

The coalition of Athens, Sparta and Ptolemy against Antigonos resulted in the protracted Chremonidean War (267/6 to 261 B.C.).<sup>7</sup> Some of the Cretan cities allied themselves with King Arcus and the Spartans.<sup>8</sup> It may be that the anti-Macedonian cities included Gortyna, Itanos, Olous, Aptera, Rhithymna, Polyrhénia, Phalasarna and Lyttos; and the pro-Macedonian Knossos, Kydonia and Praisos.<sup>9</sup>

In the confused period from 260 to 240 B.C., the agreements made with the Milesians allow us to form an idea of the groupings of the states in being at a time when Knossos appears to have been the most powerful city.<sup>10</sup>

In 229/8 B.C., the Athenians arrived at a friendly agreement with the Cretan cities, which were still divided among themselves by conflicting allegiances.<sup>11</sup> The short-lived agreement of 221 B.C. between Gortyna and Knossos, which brought Crete under their joint hegemony, was disrupted by the consequences of the rebellion of Lyttos and the ensuing events of the Lyttian War (221–219 B.C.).<sup>12</sup> The strife of this period, culminating in the Lyttian War, caused the migration of large numbers of Cretans to Miletos.<sup>13</sup>

In 220 B.C. the allies of Lyttos, the Polyrhenians and Lapaeans, sought the help of the Macedonians and Achaeans, while Knossos, allied with the Aetolians, the opponents of the Macedonians and Achaeans, obtained the assistance of Rhodes. As soon as the war was over, Polyrhénia and its allies sent troops to the aid of the Macedonians and Achaeans, and Knossos to the

<sup>1</sup> IC 2.XII.25.

<sup>2</sup> *Ib.* XIX.2.

<sup>3</sup> *Ib.* pp. 268–9.

<sup>4</sup> *Ib.* p. 11.

<sup>5</sup> BCH LXI (1937) 24 no. 1. Cf. Van Effenterre CMG 249 n. 1.

<sup>6</sup> IC 1.XXII.4 A V.

<sup>7</sup> See Rostovtzeff SEHWW 32 and *passim*; and for bibliography, *ib.* 1316 n. 12.

<sup>8</sup> SIG 434–5, line 25 ff.

<sup>9</sup> Cardinali *Ric. Stor. Ant.* IX (1904–5) 69 ff. But cf. Van Effenterre CMG 203–4.

<sup>10</sup> Cf. p. 117 and n. 1.

<sup>11</sup> SIG 535; IC 1 p. 48; *ib.* 2 p. 110; *ib.* 4 p. 20; Rostovtzeff SEHWW 199; Van der Mijnsbrugge CK 60; Van Effenterre CMG 252.

<sup>12</sup> Pib. 4.33–4; cf. p. 164; Cardinali *Ric. Stor. Ant.* IX (1904) 69, RF 33 (1905) 519, *ib.* 35 (1907) 1; Van der Mijnsbrugge CK 60–3; Van Effenterre CMG 158–60, 253–4; IC 4.168.

<sup>13</sup> Rehm *Delphinion* nos. 33, 38; Van Effenterre CMG 170; Cardinali RF *l.c.*; Van der Mijnsbrugge CK 63.

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Aetolians.<sup>1</sup> The continuing social war in Crete was terminated in 217/16 B.C., when Philip succeeded in rallying Crete to his cause and became its patron.<sup>2</sup>

The ensuing period of relative stability and peace<sup>3</sup> was terminated by the outbreak of the Cretan War (205/4–201 B.C.), instigated by Philip, between Crete and Rhodes.<sup>4</sup> The name of the war is misleading, because there appears to have been no unified Cretan action, but raids by individual states.<sup>5</sup> That an anti-Macedonian group of cities abstained from action, or had at least deserted the Macedonian cause by 201 B.C., is likely, in view of the apparent division of the states into two large groupings in 201/200 B.C.: the pro-Macedonian group including Axos, Sybrita, Lato, Istron, the Arcadians and Allaria, and an anti-Macedonian group including Knossos, Polyrhenia, Kydonia and Rhaukos;<sup>6</sup> so that Rhodes was able to secure the neutrality or the friendship of cities previously hostile by diplomatic methods which the treaty with Hierapytna (between 200 and 197 B.C.) exemplifies.<sup>7</sup>

From this time onward, the Romans, engaged in that course of diplomacy and war which eventually brought Macedonia and Syria into their empire,<sup>8</sup> increasingly intervened in issues affecting Crete. That Nabis had friendly relations with some of the Cretan cities, which the Romans resented and desired to disrupt, is made clear by the peace terms offered to the Spartan king in 195 B.C.<sup>9</sup> In the course of the second century the Romans were to intervene effectively, and to their own advantage, in the internal politics of Crete, which were dominated by a series of wars between Gortyna and Knossos. The first indication of such hostilities is contained in the documents reporting an embassy of the Magnesians to both cities and offering arbitration in the war waged by them.<sup>10</sup>

<sup>1</sup> Plb. 4.33.1 ff.

<sup>2</sup> *Id.* 7.11.9. Whether Knossos and the other allies of Rhodes welcomed this patronage is, however, doubtful. Cf. Holleaux K. 13 (1913) 145; Van Effenterre CMG 224.

<sup>3</sup> The Epidaurian decree of 207/6 B.C. (SIG 360) may have described the Lyttian War as *ἐπιπόλεος πόλεμος*; but there may also have been warfare between Knossos and Gortyna, involving also their allies, in 210 B.C. Guarducci IC i p. 49; *ib.* 4 p. 22; Van Effenterre CMG 224; Van der Mijnsbrugge CK 64.

<sup>4</sup> Plb. 13.4; Herzog K. (1902) 316; Holleaux REG 30 (1917) 88; 33 (1920) 223; Segre RF 11 (1933) 365; Rostovtzeff SEHWW 607.

<sup>5</sup> Van der Mijnsbrugge CK 65; cf. Van Effenterre CMG 224–5.

<sup>6</sup> Van der Mijnsbrugge CK 66–7. Cf. Holleaux K. (1913) 137.

<sup>7</sup> IC 3.III.3 A; cf. Van Effenterre CMG 225–6.

<sup>8</sup> Cf. Rostovtzeff SEHWW 52–3.

<sup>9</sup> Liv. 34.35.

<sup>10</sup> IC 1.VIII.9; *ib.* 4.176.



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The offer was refused, the Gortynians preferring the arbitration of Ptolemy.

We do not know the result of the conflict, but some kind of agreement took place between the two cities.<sup>1</sup> For when war is next recorded, in 189 B.C., they were opposed by Kydonia.<sup>2</sup> In this year the praetor Q. Fabius Labeo attempted, without success, to put an end to the war. He was also engaged in the task of persuading the Cretan cities to negotiate the return of the large number of Roman captives under their control, but only the Gortynians obliged him. Inscriptions at Aptera and Polyrhénia, in honour of the Scipios and L. Aemilius Regillus, imply that official contact with the Cretans was not confined to the mission of the praetor.<sup>3</sup>

Five years later the Romans were more successful in their efforts to settle Cretan differences. The Gortynians, seeking a fresh opportunity to weaken the Knossians, deprived them of two portions of their territory, one of which they gave to the Rhaukians, the other to the Lyttians. A mission, headed by Appius Claudius, arrived in Crete from Rome, to whom the Cretans agreed to submit the resolution of their disputes. The Knossian territory was restored, and another dispute between Kydonia and Phalasarna was satisfactorily settled.<sup>4</sup> Shortly afterwards, in 183 B.C., Eumenes II of Pergamon, in order, no doubt, to facilitate the recruitment of mercenaries, followed up the Roman diplomatic success by making a treaty with thirty Cretan states, which are enumerated in the document.<sup>5</sup> But this semblance of a *koinon* could not speak for the whole of Crete, still resisting unity even in the form of foreign dependence: Itanos, for example, was still under Ptolemaic influence.<sup>6</sup> Only a few years elapsed before the cities were again at loggerheads, as seems clear from Polybios.<sup>7</sup> Once again, in 174 B.C., a Roman peace was attempted, but without the same success.<sup>8</sup>

Later, in the war of Rome against Perseus (Third Macedonian

<sup>1</sup> Perhaps through the intervention of Ptolemy. Cf. Van Effenterre CMG 261.

<sup>2</sup> Liv. 37.60.

<sup>3</sup> IG 2.III.5 A; XXIII.13. Cf. Guarducci *ad loc.* On the relation between these official attentions and Hannibal's stay in Gortyna, see Van Effenterre CMG 261-2.

<sup>4</sup> Pfb. 22.15. The dispute between Kydonia and Phalasarna is obscure. See Cardinali RF (1907) 16; Guarducci IG 2 pp. 111 and 219-20; Van Effenterre CMG 263 n. 1; Van der Mijnsbrugge CK 49-50.

<sup>5</sup> SIG 627. Cf. Griffith MHW 176.

<sup>6</sup> Cf. Van der Mijnsbrugge CK 29-3; CAH 8.291.

<sup>7</sup> 24.3.

<sup>8</sup> Liv. 41.25.2

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War, 171-168 B.C.), despite official neutrality,<sup>1</sup> the Cretan cities demonstrated their independence of Roman power by taking part on both sides, by acts of piracy and the despatch of mercenaries.<sup>2</sup> In their attempt to save Perseus, the Rhodians, in 168 B.C., made a diplomatic approach to 'all the Cretans', as well as to each state separately,<sup>3</sup> a gesture that demonstrates that the *Koinon* still had formal reality and underlines the ambivalent position of Crete in foreign affairs.

Aggressive demonstrations of independence in external policies, in which the Cretans, though minor actors, exercised a capacity for self-interest matching the fashion set by more powerful protagonists, were accompanied by internal acts of violence. In 171 B.C. occurred the wanton assault of Kydonia upon its ally Apollonia.<sup>4</sup> The Gortynians came to the aid of Apollonia and took action against Kydonia (170 or 169 B.C.). Kydonia narrowly escaped from this initial onslaught, and in the following year sent for help from its ally Eumenes of Pergamon. The troops despatched in response to this appeal were allowed to take over the city in return for the protection they afforded.<sup>5</sup> Meantime the Knossians had followed up the intervention of Gortyna by taking possession of Apollonia. The ensuing dispute between Knossos and Gortyna was settled in a treaty, arranged with the arbitration of Ptolemy Philometor, which gave Gortyna the possession of Apollonia (168-166/5 B.C.).<sup>6</sup> The Gortynians and Knossians hastened to take advantage of their agreement by conquering Rhaukos and dividing its territory between themselves (166/5 B.C.).<sup>7</sup>

The advantages to be gained from their piratical ventures, probably deriving a new impetus from the conclusion of the Persean War,<sup>8</sup> afforded the Cretans one motive for solidarity and united policies surpassing the influence of all others. The Rhodians, in alliance with Attalus II, were involved in war with a united Crete determined to resist any attempt to put an end to their piracy (155-153 B.C.). Siphnos was plundered by the Cretans, and their general success was such that Rhodes sought the assistance

<sup>1</sup> Liv. 42.19; 37; 45. Cf. Griffith MHW 92.

<sup>2</sup> Liv. 42.15; 51; 59; 43.7; 44-43; 45-5; Plb. 29.8.6. Cf. Griffith MHW 74; CAH 8.291; Rostovtzeff SEHHW 610; Van Effenterre CMG 264.

<sup>3</sup> Plb. 29.10.6.

<sup>4</sup> Cf. p. 165; Plb. 28.14; D.S. 30.13.

<sup>5</sup> Plb. 28.15. Cf. Guarducci, IC 2 p. 112.

<sup>6</sup> IC 4.181, and Guarducci *ad loc.* with refs.

<sup>7</sup> IC 4.182. Cf. Plb. 30.23.1.

<sup>8</sup> Rostovtzeff SEHHW 772.



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of the Achaean League, but only to meet with refusal. The war was perhaps terminated by Roman diplomacy.<sup>1</sup>

The Rhodian attempt to gain Achaean support was countered by a Cretan embassy headed by the Gortynian Antiphatas.<sup>2</sup> That this action indicates Gortynian leadership in the struggle against Rhodes is not impossible,<sup>3</sup> but there are perhaps rather more certain indications that Knossos shortly afterwards took over the lead in Cretan affairs from her chief rival.<sup>4</sup> At about this same time the Gortynians had razed Phaistos.<sup>5</sup>

Dorylaos, the military expert and recruiter of mercenaries, friend of Mithridates Euergetes, happened to be making one of his recruiting visits to Crete in the year when Euergetes died (121/20 B.C.). Whilst he was there, war broke out between Knossos and Gortyna; Dorylaos was made a general, and thus enabled the Knossians to win a speedy victory.<sup>6</sup> War was renewed between the two cities in 115 B.C., a war which was settled by Roman negotiation a few years later.<sup>7</sup> These struggles were intensified by conflicts between Lato and Olous, and Itanos and Hierapytna, Lato and Itanos being allied with Knossos, Olous and Hierapytna with Gortyna.<sup>8</sup> The prolonged struggle between Itanos and Hierapytna was preceded by the Hierapytnian destruction of Praisos.<sup>9</sup>

These protracted disputes and repeated outbreaks of war gave the Romans opportunities for diplomatic intervention.<sup>10</sup> Diplomacy paved the way for conquest. Accused of favouring the cause of Mithridates, of supplying him with mercenaries and supporting piracy, the Cretans had to face a war with Rome, perhaps gratuitously provoked. They fought with such defiance that they were able to force an unfavourable peace on the Romans (71 B.C.). The peace was later repudiated, and outrageously provocative demands were made of the Cretans, which they refused. There-

<sup>1</sup> Pib. 33-4; 11; 15; 16; 17; D.S. 31.37; 43; 45; SIG 570; SGDI 3590. Cf. Segre RF(1933) 379; CAH 8.292; Rostovtzeff SEHHW 772; Van Effenterre CMG 268-9.

<sup>2</sup> Pib. 33.16.1.

<sup>3</sup> Cf. Van Effenterre CMG 269 n. 1.

<sup>4</sup> Van Effenterre, CMG 271 n. 2, compares SIG 654 A, emanating from the Knossians and the *Koimon*, with SIG 653 A of a few years earlier, emanating from the *Koimon* merely. Cf. Str. 10.476; D.S. 33.10; Guarducci IC 4 p. 25.

<sup>5</sup> Guarducci IC 4 p. 25; cf. *ib.* 1.XXIII p. 269; Str. 10.479.

<sup>6</sup> Str. 10.477. Cf. Griffith MHW 187.

<sup>7</sup> Van Effenterre REA 44 (1942) 43-4; cf. Guarducci IC 4 p. 26.

<sup>8</sup> Van Effenterre *ib.* 31 ff.; cf. CMG 271; Guarducci IC 4 p. 26.

<sup>9</sup> IC 3.IV.9-10; Guarducci *ad loc.*

<sup>10</sup> *Ibid.* Cf. Van Effenterre CMG 271-2.

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upon Metellus was despatched to Crete and brutally accomplished the design of Roman occupation (67 B.C.).<sup>1</sup>

### 3. PIRACY AND MERCENARY SERVICE

The warfare between the Cretan cities from the end of the fourth century until the Roman conquest must have caused a continuous drain on the manpower resources of the citizen military classes. Yet the cities were able not only to supply forces for these internal wars, but to engage in two other forms of aggressive activity on a scale which increased, within the same period, to such proportions that it has become a commonplace of historical comment.

Thus Benecke has written: 'But whereas their internal differences taxed the patience of their neighbours, all Cretans agreed in a form of activity which made them unbearable. That activity was piracy, which, with mercenary service, provided a livelihood for the surplus population of the island.'<sup>2</sup> And Ormerod has argued more specifically: 'There is no doubt that geographical conditions were largely responsible for making the Cretan what he was, a mercenary or pirate, or both, as occasion offered. A large part of the island is barren and unable to support a large population. Whereas today the Cretan emigrates to the mainland or to America, in ancient times he took service abroad as a mercenary.'<sup>3</sup>

But already in the Homeric record Crete was conceived as the opposite of infertile and scantily populated.<sup>4</sup> And centuries later, in 189 B.C., the Cretans could absorb large numbers of Roman prisoners, not only into their cities, but also into their rural districts.<sup>5</sup> Cretan agricultural conditions in general cannot then, it

<sup>1</sup> See the account, and references, in Ormerod PAW 225-7.

<sup>2</sup> CAH 8.591.

<sup>3</sup> PAW 143. Cf. the more cautious assessment of the geographical factor by Cary GBGRH 97, which supports the earlier argument of this chapter.

<sup>4</sup> *Od.* 19.172-4.

<sup>5</sup> Livy 37.60: *Cydoniatae bellum adversus Gortynios Gansiosque gerebant, et captivorum Romanorum atque Italici generis magnus numerus in servitute esse per totam insulam dicebatur. Classe ab Epheso profectus cum primis Cretae litus attigit, multos circa civitates misit ut armis abstererent captivosque in suis quaeque urbibus agrisque conquistos reducerent, et legatos mitterent ad se, cum quibus de rebus ad Cretenses pariter Romanosque pertinentibus ageret. Nihil magnopere ea Cretenses moverunt; captivos praeter Gortynios nulli reddiderunt. Valerius Amilius quatuor milia captivorum, quia belli minus timerint, ex tota insula redidit scripsit.* . . .



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would seem, have compared unfavourably with the rest of Greece.<sup>1</sup> Though its eastern and western extremities might be markedly barren, its central district benefited from the natural irrigation afforded by Mount Ida, and the plain of Messara was among the richest in Greece.<sup>2</sup>

Those who tilled the soil of Crete can have been no less skilful than other Greek farmers of antiquity, who, in general, had to contend either with the soil erosion caused by excessive rainfall, or the aridity which necessitated irrigation, or, when that was not possible, a dry farming technique accompanied by constant manuring and summer fallowing.<sup>3</sup> Rainfall in Crete was not excessive however,<sup>4</sup> and our evidence shows that irrigation was practised. Furthermore, in antiquity, the Cretan mountains were covered with the woods which not only provided the resources from which the piratical fleets were constructed,<sup>5</sup> but which must have aided farming by providing a windbreak,<sup>6</sup> and by helping to prevent soil erosion. Hence it has been conjectured that the trade of early Crete had its origin in the export of its orchard produce.<sup>7</sup>

And so, if the Cretan farmer, like the sturdy Cretan sheep whose wool provided a garment not unknown in Athens,<sup>8</sup> adapted himself to the prevailing conditions, there is no reason to invoke geography as the prime cause of piracy and mercenary service. If such had been the case, other parts of Greece would have produced more pirates and more mercenaries. The argument could only be sustained, in a modified form, if it could be proved that the serf population of the Hellenistic period no longer produced a surplus adequate for the food supply of the citizen class, who therefore had to turn increasingly to piracy and mercenary service. But our evidence, such as it is, gives no such indication.

In Sparta, roughly from the time of the Persian Wars until the third century B.C., the available evidence goes to show a marked

<sup>1</sup> Cf. Jardé CAG 1: 34, 60, 108, 203-8. Cf. however *ib.* 199, where Aristotle's description (*Pol.* 1272 a) of Cretan homosexuality as a form of birth control is uncritically cited. It is regrettable that Aristotle's promise to consider the matter further was not fulfilled. If the suggestion is taken seriously it would appear that this form of birth control was not particularly reliable, or that adoption was practised on an incredibly large scale.

<sup>2</sup> Cary GBGRH 96.

<sup>3</sup> Michell EAG 46.

<sup>4</sup> See the comparative figures quoted by Michell *ibid.*

<sup>5</sup> Cf. Rostovtzeff SEHWW 1169 and n. 110; Cary GBGRH 96; Michell EAG 234.

<sup>6</sup> Crete is exposed to the full force of winter and summer winds; Cary *ibid.*

<sup>7</sup> Cary *ibid.*

<sup>8</sup> *Ar. Th.* 730; *Eup. fr.* 311; cf. Michell EAG 69 and 292.

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decline in the Spartiate population.<sup>1</sup> Aristotle attributed Sparta's decline to the paucity of its citizens, associated with a defective system of land-tenure; for, in his time, two-fifths of the land was owned by women and had fallen into few hands.<sup>2</sup> The overriding need to hold family estates together on the old traditional basis is emphasized by the evidence of close intermarriage within families<sup>3</sup> and the survival of fraternal polyandry<sup>4</sup> in rather exceptional circumstances.<sup>5</sup>

In Crete, on the other hand, despite the similarity of Spartan and Cretan institutions, the form of ownership of the estates was undergoing marked changes. By the time of Polybios the law allowed a citizen to have as much land as he could acquire, a development that seems to be already foreshadowed in the Gortynian Code.<sup>6</sup> But the state organization of the *tyssitia*, favourably commented upon by Aristotle, ensured that the poorer, as well as the richer citizens, the women and children as well as the men, had free access to a food supply.<sup>7</sup> (The arrangement, incidentally, further proves the continuing existence of an agricultural surplus.) Sparta and Crete must have been alike in that landed estates fell into fewer and fewer hands; radically different in that the state organization of the food supply in the Cretan cities ensured that a growing proportion of citizens who owned little, or perhaps no land, still remained citizens, still had their free access to a guaranteed food supply for themselves, their wives and children.

The tendency would be for government and estate management to become increasingly the province of a wealthy few; whilst the younger citizens, increasingly deprived of ownership of estates, concentrated from boyhood on athletic and military pursuits, in *agelai* which were also more and more tending to be organized by the wealthy, and in similarly supervised adult associations. We have had occasion to notice the internal friction caused by these developments and the measures taken by the authorities to control and counteract it in the Hellenistic period.<sup>8</sup> The constant warfare between the states from the end of the fourth century B.C. meant that the military training of the youth was not an idle pastime. The available evidence relating to the growth

<sup>1</sup> See my discussion of the evidence in CP 49.1 (1954) 27-32.

<sup>2</sup> *Pol.* 1270 a 11-12.

<sup>3</sup> Michell S 210.

<sup>4</sup> *Plb.* 12.6.

<sup>5</sup> Cf. pp. 74-5; Thomson SAGS 71-2; Ziehen H 68 (1933) 234.

<sup>6</sup> *Plb.* 6.46. Cf. p. 61.

<sup>7</sup> 1272 a 4.

<sup>8</sup> Pp. 119, 184.



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of piracy and mercenary service within the same period shows that internal warfare alone was not in itself sufficient either to cause a drastic fall in citizen population, such as occurred in the case of the Spartiates, or to provide sufficient distraction and employment for the majority of younger citizens, more and more debarred even from a supervisory role in agricultural production, and exceptionally well-trained in certain types of warfare—such as ambushes, raids, surprise attacks and night fighting<sup>1</sup>—but probably for little else.

Sea-raiding and piracy in the Aegean are well attested from Minoan times; and the Homeric evidence shows their common occurrence in the subsequent period, when the Cretan pirate became a type.<sup>2</sup> There was then perhaps a diminution of Cretan piracy. For Strabo<sup>3</sup> tells us that it was generally agreed that Crete, in ancient times, had good laws which Greece emulated, and then changed for the worse. After the Tyrrhenians, who, more than any other people, ravaged the Mediterranean, the Cretans succeeded in the practice of piracy. Later, their piracy was destroyed by the Cilicians; Cilician piracy was then ended by the Romans. Strabo's account of piracy probably refers to the three centuries before the Roman Empire came into being, with the Tyrrhenians—(Etruscans and other Italians)—active in the Aegean in the last quarter of the fourth century.<sup>4</sup>

With the end of the Tyrrhenian activity in the early years of the third century,<sup>5</sup> the Cretans began to be increasingly prominent. Pirates from Allaria are mentioned round about 260 B.C.<sup>6</sup> The harbours of Crete were used as places of assembly and for the disposal of captives by the pirates of Aetolia, with whom the Cretans had friendly relations.<sup>7</sup> In 229 B.C. the Athenians sent ambassadors to foster good relations with the Cretans who had recently joined with the Aetolians in raiding Attica.<sup>8</sup> The Athenians used the good offices of Eumaridas of Kydonia; and the Athenian citizens who had been captured and carried off to Crete were ransomed for twenty talents. This example underlines an important feature of the piratical activities of the times, to which

<sup>1</sup> Pib. 4B.11.

<sup>2</sup> Ormerod PAW 80-94; cf. especially *Od.* 14.199 ff.; 16.424 ff.

<sup>3</sup> 10.477.

<sup>4</sup> Ormerod PAW 128-9.

<sup>5</sup> *Ib.* 130 and n. 3.

<sup>6</sup> IG XII.3.328; Guarducci IG 2 p. 1. Cf. Ormerod PAW 131.

<sup>7</sup> Rostovtzeff SEHWW 199.

<sup>8</sup> SIG 535. Cf. Rostovtzeff *ibid.*; Van der Mijnsbrugge CK 60; Ormerod PAW 146; Guarducci IG 2 p. 48; 2 p. 110; 4 p. 20.

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the Cretans were committed—the wholesale capture of human beings for purposes of ransom and for the slave trade.<sup>1</sup> The islands were a main target of Aetolian and Cretan piracy especially at the time of the Chremonidean War, and later, in the second half of the third century, when, as a result of the withdrawal of the Ptolemies and the passing of the Island League, there were no effective counter-measures, until Rhodes took a hand.<sup>2</sup>

It becomes increasingly clear, from the end of the third century, that the major states who were involved in war used pirates in an organized way, and that neutral cities were by no means exempt from their raids. The efforts of the Rhodians to counter Cretan piracy were thwarted by Philip, who did so much to provoke the Cretan War of 205/4–201 B.C. It was part of the policy of Nabis to use Cretan pirates; and the new methods adopted by Rhodes and Pergamon, of forming alliances with individual Cretan cities, in the early second century, received a setback as a result of the Persean War, when pirates were used on both sides.<sup>3</sup> The success which attended the Cretan raids in the war with Rhodes of 155–153 B.C. have already been noticed.<sup>4</sup>

Raids and kidnapping continued on a large scale until the beginning of the second century, reviving at the time of the Persean War and the war with Rhodes.<sup>5</sup> The measures taken by Rhodes, however, helped considerably towards the decline of Cretan piracy in the first half of the second century, the consequent diminution in the supply of slaves from Cretan sources, and the development of alternative sources of supply by the slave-dealers of Syria, Phoenicia and Asia Minor. The paucity of Cretan coinage at this time may well reflect some temporary commercial impoverishment associated with the decline of piracy. But the rise of Cilician piracy probably promoted the revival of piracy and of commercial prosperity in Crete, in the latter half of the second and in the first centuries. There seems no reason to doubt the association of the Cretans with the Cilicians, and the consequences for Cretan economy are reflected in the now abundant coinage and the discovery of some rich hoards.<sup>6</sup>

<sup>1</sup> Cf. Rostovtzeff SEHHW 201–4.

<sup>2</sup> *Ib.* 222–3.

<sup>3</sup> *Ib.* 607–10; cf. Ormerod PAW 145–50.

<sup>4</sup> P. 239.

<sup>5</sup> Cf. Rostovtzeff's discussion of the documentary evidence SEHHW 781–2.

<sup>6</sup> App. *Sic.* 6; D.S. 40.13; Plu. *Pomp.* 29; Raven *Nat. Chron.* 55.18 (1930) 133; Rostovtzeff SEHHW 781–2, 785. On Cilician piracy Ormerod PAW Ch. 6; CAH 9.350; Rostovtzeff *ib.* 783–6, 1516–17.



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The activities of the Cretan mercenaries have now become a familiar aspect of the foreign relations of the Cretan cities,<sup>1</sup> so that such evidence regarding them as is mentioned here will be designed to illustrate their widespread employment and the considerable numbers from time to time involved, in order to support the comparison made between the decline of the Spartiate and the apparent stability, if not increase, of the Cretan citizen population.<sup>2</sup> The treaty between Hierapytna and Rhodes of 200-197 B.C.<sup>3</sup> is instructive in this connection. For Hierapytna guaranteed to send a contingent of 200 men to help Rhodes in case of necessity, of whom not less than half were to be Hierapytnian citizens, though the remainder could be mercenaries. This clause not only illustrates the preference of employers for the specially trained Cretan citizen soldier, but also why the Cretan cities sometimes had to import mercenaries themselves to fight their own wars, since their citizens were so freely allowed to enter foreign service.<sup>4</sup> The stipulated number of Hierapytnian citizens seems small only by modern standards. If we bear in mind the restricted basis of Cretan citizenship, and the size of the city, the provision of 100 young men of military age for one contingent cannot have been a slight demand.

Cretan archers were employed abroad in the fifth century,<sup>5</sup> and formed a part of Alexander's army.<sup>6</sup> But the Cretan mercenary became especially prominent in the Hellenistic period, in the service of the Egyptians, of Syria, Sparta, the Achaean League, Pergamon, Macedonia, and even Syracuse and Rome.<sup>7</sup>

<sup>1</sup> E.g. Griffith MHW *passim*; Parke GMS *passim*; Tarn and Griffith HC 92-3, 202; Rostovtzeff SEHWW 149, 666, 922, 1397, 1516; Van Effenterre CMG Ch. 6 *et passim*.

<sup>2</sup> Cf. Van Effenterre CMG 303 and n. 1; Pendlebury AC 354. <sup>3</sup> IG 3.III.3 A.

<sup>4</sup> Cf. Griffith MHW 92-3, and his further comment: 'Another possible reason for such recruiting is that they needed a different kind of soldier as well as their own, for the Cretans were famous chiefly as archers and experts in the tactics of the guerilla'. The importance of this consideration should not be overlooked: cf. Van Effenterre CMG 175 n. 2.

<sup>5</sup> Th. 6.43.2; X. An. 1.2.9 *et passim*.

<sup>6</sup> Cf. Griffith MHW 13 ff.

<sup>7</sup> Egypt: Pib. 5.36.4, 65.7; OGI 1.153; Wm. Sitzb. 1915 (179) 60. Syria: Pib. 5.79.10, 82.8 ff., 10.29.6; Liv. 37.40; Just. 35.2; J. 47 13.86. Sparta: Pib. *Pyrrh.* 32.2; *Cleom.* 6.3, 21.3; Pib. 4.80, 13.6.8; Liv. 32.40.4, 34.27.2, 35.8, 35.29.1 ff. Achaean League: Pib. 16.37.3, 33.16.3; Liv. 35.28 and 29, 39.49.2; SIG 2.600. Pergamon: Liv. 38.7, 37.39.10, 38.21.2; OGI 1.270. Macedonia: Pib. 4.61.2, 67.6, 5.66.6; Liv. 31.35.1 ff., 33.18.9 ff., 33.14.3 ff., 42.12.7, 43.7.1, 44.43.8; Pib. *Aem.* 16.1, 23.3 ff. Syracuse: Pib. 3.75.7; Liv. 24.30.13 ff. Rome: Liv. 33.3.10, 43.7.1 ff.; Pib. *Aem.* 15.3, CG 16.3; and after the Roman occupation of Crete (57 B.C. in Gaul) Caes. BG 2.7. References cited by Griffith MHW 234-5, 245.

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References to Cretans are naturally more prolific than citations of their actual numbers present on various occasions, some of which, however, represent relatively considerable forces. Thus, in 219 B.C., Philip's army included 500 Cretans sent by the Polyrrhenians,<sup>1</sup> and at the same time Knossos sent 1000 men to the help of the Aetolians, divided into two detachments of 500 men, of which one is definitely described as a mercenary contingent.<sup>2</sup> In the last year of Philip's war against Rome (197 B.C.), the garrison at Corinth included 800 Cretans;<sup>3</sup> and a force of 300 Cretans is reported early in the war.<sup>4</sup> When Perseus reviewed his army in 171 B.C., it included 3000 Cretans, commanded by Sosos of Phalasarna and Syllos of Knossos.<sup>5</sup>

During the Chremonidean War there were 1000 Cretans with Areus at Argos.<sup>6</sup> In the war of the Allies (220-217 B.C.), the Spartan king had at least 200 Cretans;<sup>7</sup> and in his army facing Flamininus in 195 B.C. Nabis had 2000.<sup>8</sup> The army of the Achaean League operating against Nabis in 192 B.C. contained 500.<sup>9</sup>

The mercenary force in Alexandria in 221 B.C. included 1000 Cretans.<sup>10</sup> At the battle of Raphia in 217 B.C. the Egyptian forces included 3000 Cretans,<sup>11</sup> and in the opposing army of Antiochos III there were 2500, who were perhaps mercenaries.<sup>12</sup> 1000 Cretan mercenaries were recruited by Ptolemy Philometor in 163 B.C.<sup>13</sup>

Cretans were serving under Antiochos at the battle of Magnesia in 189 B.C.,<sup>14</sup> while the Pergamene contingent in the Roman army included 500 Cretan archers.<sup>15</sup>

When the Romans asked their ally Hieron of Syracuse for reinforcements in 218 B.C., he sent a force that contained 500 Cretans,<sup>16</sup> and it was perhaps this same Cretan force which is mentioned again at Syracuse in 213 B.C.<sup>17</sup>

Thus, as Crete became a reservoir of mercenary manpower for the warring states, hired Cretan could be found fighting against hired Cretan on opposing sides. Strabo's account of the visit of

<sup>1</sup> Pib. 4.35.3.

<sup>2</sup> *Ibid.* cf. 53.8; Griffith MHW 81-2.

<sup>3</sup> Liv. 33.14.4.

<sup>4</sup> Liv. 31.35.1.

<sup>5</sup> Liv. 42.51.

<sup>6</sup> Plu. *Pyrrh.* 32.2.

<sup>7</sup> Pib. 4.80.4 and 6; Griffith MHW 95; cf. Van Effenterre CMG 187 and n. 2.

<sup>8</sup> Liv. 34.27.2.

<sup>9</sup> Liv. 35.20.8 ff., 29.1 ff.; cf. Pib. 33.16.6.

<sup>10</sup> Pib. 5.36.

<sup>11</sup> Pib. 3.65.7.

<sup>12</sup> Pib. 5.79.10, 82.10; Griffith MHW 144.

<sup>13</sup> Pib. 31.17.8.

<sup>14</sup> Liv. 37.40; App. *Syr.* 32.

<sup>15</sup> Liv. 37.39.10; App. *Syr.* 31; Griffith MHW 174.

<sup>16</sup> Pib. 3.75.7.

<sup>17</sup> Liv. 24.30.13 ff. Griffith suggests that, if it is the same force, it must have been spared by Hannibal after the ambush at Trasymene: MHW 206.



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Dorylaos to Knossos<sup>1</sup> is an example of the kind of recruiting campaign by emissaries of foreign states that must have been a regular practice. It is probable that the obtaining of permission to recruit from the governments of the individual cities concerned was a routine of diplomacy.<sup>2</sup> Thus Aptera grants recruiting facilities to Pergamon;<sup>3</sup> and the Hierapytnians are prevented from entering into service against Rhodes, and Rhodian recruiting representatives are guaranteed facilities by Hierapytna.<sup>4</sup> Sometimes, as in 219 B.C., the provision of troops by the cities was no doubt closely related to their own fends and policies.<sup>5</sup> But that such considerations were secondary is illustrated by the interview between the Roman Senate and the Cretan ambassadors, when it was pointed out that as many Cretans were serving as mercenaries with Perseus as with Rome.<sup>6</sup>

The preference expressed by Rhodes for Hierapytnian citizens,<sup>7</sup> and the stipulation in the treaty between Antigonos and Eleutherna that the troops to be provided for him under certain conditions have to be free men,<sup>8</sup> indicate that Cretan mercenaries were normally, if not exclusively,<sup>9</sup> citizens who were in a position to provide their own arms.

Since permission to recruit mercenaries probably rested with the authorities, a further motive becomes apparent for the unrelaxing control over the youth exercised by those authorities. Such control was not only necessary to allay internal tension, but to allow the authorities fully to exercise the diplomatic initiative in foreign policies which the demand for mercenaries placed in their hands.

<sup>1</sup> 10.477.

<sup>2</sup> Griffith MHW 258.

<sup>3</sup> IG 2.III.4. C.

<sup>4</sup> IG 3.III.3 A.

<sup>5</sup> Cf. p. 235.

<sup>6</sup> Liv. 43.7.1. ff. Van Effenterre, however, argues that foreign policies were a major factor in the employment of mercenaries GMG 184-94.

<sup>7</sup> IG 3.III.3 A.

<sup>8</sup> IG 2.XII.20. Cf. the similar treaty with Hierapytna, IG 3.III.1 A.

<sup>9</sup> The suggestion that ἀτελευθίνοι and ἀπέραιτοι could enrol as mercenaries (Van Effenterre GMG 113) lacks proof, but cannot be ruled out.

## XXII

### SUMMARY: DEVELOPMENT AND CHARACTERISTICS OF THE CRETAN ARISTOCRATIC STATES

**D**ESPITE the autonomy of its cities, their particular histories and traditions, and their uneven rates of development, Cretan society represented, in its dominating aspects, a unique form of ancient Greek society. In relation to ancient Greek society as a whole, and in particular when compared with the most advanced elements of which democratic Athens is the symbol, its cities never attained a high level of economic and political organization or cultural achievement. Similar in many respects to Sparta in their backwardness, in the conservative character of their economy and political systems, which did not undergo the same radical transformation as the democratic states, they remained, until they lost their independence, at the second stage of those phases of development of ancient Greek society traditionally described as monarchy, aristocracy, tyranny and democracy.

Yet, while Sparta retained quite strong elements belonging to the first phase, Crete early advanced firmly into the second; and the information which we can from time to time recover, from the eighth century B.C. until the first century B.C., either of a general kind, or by way of partial illumination of the affairs of single cities, shows that the aristocratic phase, as typified by Crete, was neither economically nor politically undifferentiated. Crete was backward but not stagnant. Its aristocratic phase was protracted but subject to a variety of change. Hence its peculiar importance for the modern student of ancient society, an importance that was recognized by the historians and political theorists of antiquity.

The ordered state of the Late Minoan period, with its network of roads and centralized bureaucracy, is in marked contrast with



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the separatism of aristocratic Crete. When the Minoan power was broken in the fifteenth century B.C., the possibility is that the ruling classes and the cities were chiefly affected, and that large communities gave place to small. When Crete became a part of the Achaean Empire, its annexation seems to have been accomplished relatively peacefully, and there was no break in the indigenous culture. Despite the heavy fall in population, the abandonment of most of the coastal sites and inland towns, and the almost complete absence of intercourse with the world outside the Aegean, which accompanied the dissolution of the Achaean Empire, it seems likely that the inhabitants adhered to their Minoan traditions. Though iron gradually replaced bronze as the chief metal throughout this period, the Achaeans made little or no improvement in the technique of production. Since the Minoan urbanization of Crete had been accomplished without the same degree of change in the tribal structure of society as had occurred in Bronze Age Mesopotamia and Egypt, the continuity of Minoan tradition implies the preservation of archaic features which were to remain sufficiently vital to influence Cretan society as it assumed the Hellenic forms which followed upon the troubled period of transition from the Bronze to the Iron Age.<sup>1</sup>

Crete became generally 'Dorian' by the eighth century. Dorian supremacy in Crete, as elsewhere, was associated not merely with the use of iron, a cheaper and more abundant metal than bronze. Their continuing tribal organization, and the need to maintain their military supremacy, would ensure that iron could become readily available to all Dorians.<sup>2</sup> The much more widespread availability of the basic metal of the Iron Age must have been a factor of considerable importance in the development of the small communities which had followed the dissolution of Minoan centralization. The Dorians must be credited with the achievement of fashioning a stable form of social organization adapted to Iron Age conditions. But this achievement was dependent on their ability to assume control of the possibilities which the past of Crete afforded. For the Dorians followed the Cretan tradition of urbanization with a rapidity that is in marked contrast with the relatively slow development of towns by their kinsfolk on the

<sup>1</sup> Cf. Pendlebury *AC* 289, 303-13; Thomson *SAGS* 28-9; Ridgeway *EAG* 1.621-2.

<sup>2</sup> Even at the beginning of the fifth century, the iron tools of the free man cannot be seized as securities: cf. p. 221. On the large iron ore deposits in Crete compared with the lack of early iron objects see Michell *EAG* 120.

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mainland.<sup>1</sup> That the Dorian tribal organization was not dissipated, but rather that its traditions became strengthened in such conditions, can best be explained, as has been suggested, by the need to maintain compact ties of mutual loyalty to guard against the consequences of dispersed settlement.

These conditions of occupation may also have led to a more cautious treatment of the subject population than is evident in Sparta. It is also possible that the Dorians entered as masters into a caste system already established, as can be inferred from the tradition reported by Aristotle. It is in any case clear that conquest was accompanied by a skilful adaptation to indigenous traditions. The relatively unbroken continuity of these traditions has been stressed; and the process of adaptation of Dorian tribal institutions to new conditions would have been facilitated by the persistent native tribal institutions. In addition to the evidence of such continuity and adaptation already offered from the literary and legal evidence it is worth noticing the persistence of Minoan motifs in the coinage of the Classical period,<sup>2</sup> and the place-names of the Hellenistic inscriptions.<sup>3</sup> The impetus given by this contact with the traditions of the older civilization is not only indicated by the growth of cities, but by the active and relatively early practice of alphabetic writing<sup>4</sup> and the 'Daedalic' renaissance of about 750-650 B.C.<sup>5</sup> Nevertheless, the consequences of conquest should not be underestimated, because of its enduring effect on the Cretan agrarian system, which, in the absence of evidence of commodity production on any significant scale, remained essentially the basis of aristocratic economy, despite continuous changes in the actual forms of land ownership. The land and its tillers were alike appropriated as instruments of production by the ruling conquerors.

<sup>1</sup> Pendlebury AC 327: 'With the eighth century the true Hellenic Period in Crete begins. The map is particularly instructive as showing the drift westwards of the population, or more probably the settling of that part of the island by immigrants from the Mainland. The great cities of Axos, Polyrrhenia and Hyrtakina are founded, and very probably excavation would show that Phalassarna, Elyros, and Sybrita also, have remains of this period. Only slightly smaller are the new foundations of Rhokka, Bene, and Ornithe, the latter probably the ancient Oimida. Eleutherna and Kydonia have expanded rapidly.' Cf. Adcock in CAH 3.691.

<sup>2</sup> Head HN 457; Pendlebury AC 349; Cook Z I 527-35. <sup>3</sup> Pendlebury *ib.* 359.

<sup>4</sup> Demargne CD 149. Cf., in this connection, Thomson SAGS 387: 'If the Achaeans were in Crete when the *Odyssey* was composed, they are likely to have been there before the Dorian conquest; and in that case it may have been they who introduced Greek speech. It is known that Greek was spoken in Crete before the Dorians.' Cf. *ib.* 399.

<sup>5</sup> Demargne *ib. passim*.



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To speak of ownership, however, in discussing the early form of Dorian land-tenure is to invite misconceptions. The original land settlement was the product of the amalgamation of two systems. The native system of land-tenure, which the continuity of Cretan institutions enables us to describe as 'Minoan', was adapted to the tribal institutions of the conquerors. There can be no certainty about 'the laws of Minos' relating to land-tenure until we can read the Minoan records. But reconstruction of the later evidence of tribal survivals in Crete, and comparison with Sparta, make possible the hypothesis that the Dorian supremacy was accompanied by the exactions of a tributary system upon a form of the primitive village commune.

In Sparta, the original inhabitants had not been dispossessed but were allowed to continue living in their own villages.<sup>1</sup> The land and its tillers were divided out inalienably among the conquerors, who exacted a tribute of fifty per cent.<sup>2</sup> In Crete, such general and particular evidence as we have suggests that the tribute was not so highly assessed, and that native traditions generally were even less disrupted. In fact, when the remote possibility arises of there being no heirs to Gortynian estates in the fifth century, the serfs could resume their tenure according to their own traditional system.

The primary motive for the distribution of land and the tillers among the conquerors in accordance with their tribal custom was to ensure an adequate food supply for themselves and their dependents, so as to enable them to concentrate on the military and administrative functions of a ruling minority. The possibility is that contributions were made individually, and in kind, by members of the *hetairiai* to a common fund; but the system later became centrally organized through the state apparatus. This development, as compared with Sparta, was probably aided by the existing urbanization.

The distribution of land and its settled producers caused successive modifications in the system of inheritance among the rulers. The tendency developed for smaller units to grow within the wider circle of the clan, marked particularly by the institution of the *oikos*, whose traditions still exercised paramount influence in fifth-century Gortyna. Changes in the system of inheritance were accompanied by corresponding changes in the system of marriage.

<sup>1</sup> Liv. 34.27.

<sup>2</sup> Heraclid. Pont. RP. 2.7; Arist. Pol. 1270 a; Tyr. 3.

## SUMMARY

Tribal kinship and inheritance yielded to the family system based on individual ownership. One consequence of this narrowing circle of ownership was the practice of serfdom for debt, by which even the free citizen could now be reduced to the status of the subject class.

In the communities where commerce was more highly developed, and with the introduction of coined money in the early fifth century, the break-up of the older system, now represented by the transitional form of the *oikos*, must have been accelerated. For coined money made possible the alienation of estates, which had become general by the Hellenistic period, though forms of common ownership probably continued to survive.<sup>1</sup>

When, as a result of alienation, estates became privately owned, the attached serfs would also become private property, though it is difficult to see how this change in strict legal status affected their condition, except that, as free testamentary disposition would follow upon private ownership, the possibility of serfs resuming their traditional status, in default of heirs to estates, would become even more remote.

Alienation and the freedom to acquire unlimited amounts of land would mean the existence of a larger proportion of free landless persons. Nevertheless, in spite of the evidence which appears in the Hellenistic period for demands for a re-division of the land, these demands did not, it seems, meet with much success. The maintenance of the *xyssilia* system, the incessant warfare, the seizure and subjection of weaker by more powerful states, piracy and mercenary service, all alike militated against drastic economic reforms. Though piracy and the operation of a slave trade were

<sup>1</sup> As can be inferred, for example, from the Gortynian Hellenistic decrees of manumission of publicly owned persons (p. 44), and the reciprocal granting of rights of pasturage in the third-century agreement between Hierapytna and Praesos (p. 133). Rostovtzeff, SEHRE 274, writes: 'The only episode in the economic life of Crete and Cyrene which is known to us [in the imperial period] is the endeavour of the Emperors Claudius, Nero, and Vespasian to put an end to the chaos in the conditions of land-tenure which prevailed there. Large tracts of land in both countries which legally belonged either to the emperors, as heirs of the Ptolemies, or to the cities, were occupied by private possessors. Tacitus and Hyginus, whose statements are supported by epigraphical evidence, record the long story of the efforts of Claudius and his successors to put an end to such encroachments and to restore the public land to the state and the communities.' Cf. Tac. *Ann.* 14.18; Hyg. *De cond. agr.* 120, and the inscription cited by Rostovtzeff, *ib.* 379 n. 51, in *Ann. Ép.* 1919 no. 22, which refers to L. Turpilus Dexter, the praetor, who on behalf of Nero 'pr[aedia] [p]ublica Gortynio[rum] [p]eraque a privatis occupata [restit]uit terminavitque'.



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no doubt responsible for periods of commercial prosperity, such forms of livelihood hindered rather than helped any improvement in the mode or technique of production. But the major obstacle to any such improvement was the continuing existence of the serf class of producers. Their liberation as small-scale producers would have been the prerequisite of any major advance in internal economic organization. Although their organization of serf labour had brought the Dorian aristocracies into being, it also in large measure contributed to their later inability to advance.

When the Dorians became dispersed as rulers over Crete, their tribal organization may be said to have assumed rudimentary forms of state apparatus, since it was superimposed upon an already existing economic and social order. The dispersal itself must have taken a variety of forms, including perhaps fusion with existing ruling elements.<sup>1</sup> But here again existing urbanization

<sup>1</sup> Cf. Paton and Hicks, *Inscr. Cos* 342-3: 'It is reasonable to suppose that the *στρατοί* were constitutionally equivalent in power to the tribe. Probably the political organization of the Cretan cities rested originally on the three Doric tribes: each tribe was divided into a certain number of *στρατοί*, the *στρατοί* being subdivided into smaller bodies, each of which was under the command of a *κόσμος*. The numerical strength of the three tribes was originally equal: afterwards the balance was lost, and, when one tribe had attained such a numerical superiority that each of its *στρατοί* was equal to one of the other tribes, a reform in the constitution, giving this tribe a share in political power proportionate to its numbers, was required. We may therefore suppose that at Gortyna the *Dymanes* were one of the weaker tribes; the *Αἰθαλεῖς* and the *Δαξ* - - - *εῖ*; being *στρατοί* of one of the stronger tribes. It remains to be seen if further epigraphical evidence will confirm this.

'Some similar conditions may have existed in Cos.'

Assuming that the view of the *στρατοί* which I have maintained is accepted, and if we overlook the possibility that *κόσμοι* might have been named by tribe or by clan indifferently, in the conventional formula 'Ἐν τῶν δέστων κόσμῶν', the other major modification in the process supposed by Paton and Hicks that may be required is that the political organization did not rest everywhere *entirely* on the three Doric tribes, though this was probably the general rule. The readiness of the Dorians to adapt and modify existing institutions makes likely the possibility of fusion with existing ruling groups, especially in places where the Dorians were so numerically weak that they were obliged to make more concessions to the original inhabitants and more changes in their own form of organization than was their normal custom. The Dorians of Argolis, for example, though organized in the three usual tribes, also had another, the *Hymnaeis*, based on the conquered people. (Thomson SAGS 166, citing IG 4.517; St.B. *Δρυμνεῖς*; SIG 394 n. 4.)

The now available epigraphical evidence does indicate some degree of fusion, though not when it occurred. References to the Dorian tribes have already been indicated (p. 230).

At Knossos, in addition to the Pamphylioi, we find the 'Ἐξαροπεῖς (?) mentioned (IG I p. 51, and C. n.c.); *Ἀγχινα* (ib. VIII.10. 3rd/2nd C. n.c.); *Αἰθαλεῖς* (ib. p. 52, and C. n.c.).

At Dreros, *Αἰθαλεῖς* (ib. IX.1 A. 3rd/2nd C. n.c.).

## SUMMARY

must have promoted the autonomy of the ruling groups. That is probably the principal reason why the monarchy disappeared so early, for its powers to be usurped by the *kosmoi*; and alike for the further development of inequalities of political power between the various clans.

The archaic inscriptions already show that the political forms of aristocratic society have taken firm roots, with developing specialization of administrative functions among the chief magistrates. As the *oikos* developed as an economic and social unit within the clan, so more restricted kinship groups became politically dominant. Ruling clans gave place to the system of close oligarchy, of the fifth and fourth centuries. A system of written laws in the more advanced communities enforced the authority of aristocratic political organization.

The economic instability of the Hellenistic period was accompanied by political instability. The epigraphic evidence reveals a much greater complexity of constitutional procedure, accompanied by a revival, in places, of powers of the Assembly, and a consequent widening of the sphere of political influence among larger sections of the free citizen class. But the authorities managed to retain, and even to extend, their firm control over the

At Iato, in addition to the Hylleis, *Alθαλεῖς* (?) (ib. XVI.3. and C. n.c.); *Alαγεῖς* (ib. 29 f. and C. n.c.); *Ἐχαροεῖς* (ib. 25 and 31. and C. n.c.).

At Lyttos, in addition to the Dymanes, *Ἀρχήα* (ib. XVIII.12); *Δίφνιοι* (ib. 9. and C. n.c.); *Υαμένθιοι* (?) (ib. 13).

At Malla, *Alθαλεῖς* (ib. XIX.3 A. and C. n.c.).

At Olous, in addition to the Pamphyloi, *Alθαλεῖς* (?) (ib. XVI.3. and C. n.c.).

At Axos, *Κοδιάρτιοι* (?) (IC 2.V.9. 6th/5th C. n.c.); -]ρίδαι (ib. 28. 3rd/2nd C. n.c.); the only example of such an ending).

At Hierapytna, in addition to the Dymanes and Pamphyloi, *Καμυεῖς* (IC 3.II.1. and C. n.c.).

At Prason, *Φαρκασεῖς* (ib. VI.8. 3rd C. n.c.).

At Gortyna, in addition to the Dymanes, *Alθαλεῖς* (IC 4.72. about 480-50 n.c.; ib. 142. about 450-400 n.c.; ib. 167. 3rd C. n.c.; ib. 184. 2nd C. n.c.; ib. 259. 2nd C. n.c.). *Αἰνιάρες* (ib. 196. 2nd C. n.c. Cf. IC 1.XVII.6 (Lebena). 2nd/1st C. n.c.). *Αἰνολήται* (ib. 261. 2nd/1st C. n.c. Cf. IC 1.XVII.3 (Lebena). 2nd/1st C. n.c.); *Ἀρ...ημο* (ib. 236. 4th/3rd C. n.c.); *Δεφ...* (ib. 171. 3rd C. n.c.); -]ραεε or -]ραοι (IC 1.XVII.4 A-B (Lebena). 3rd C. n.c.).

These names occur instead of the three tribal names in the conventional formula. *Δίφνιοι* certainly indicates fusion, but it may be fusion of two Dorian tribes. *Ἀρχήα* may not be a tribal name, but may be *ἀρχήα* = *ἀρχή*. The occurrence of *Καμυεῖς* and *Φαρκασεῖς*, as feminine singulars instead of the usual masculine plurals, is an unusual feature which may indicate the prevalence of non-Dorian elements, especially as they occur in Eastern Crete. On all names, cf. Guarlucci *ad loc.*, who cites Maiuri's views on the sometimes archaic, sometimes foreign connections.



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education and the military training of the youth. Although close oligarchy was modified, aristocracy retained its political power and resisted fundamental change. The strife that is written large in the history of the internal and external relations of the Cretan states in the Hellenistic period is testimony to the stubborn tenacity of those who wielded this political power, in face of the crisis that had overtaken their system, and which was only to be resolved by foreign conquest.

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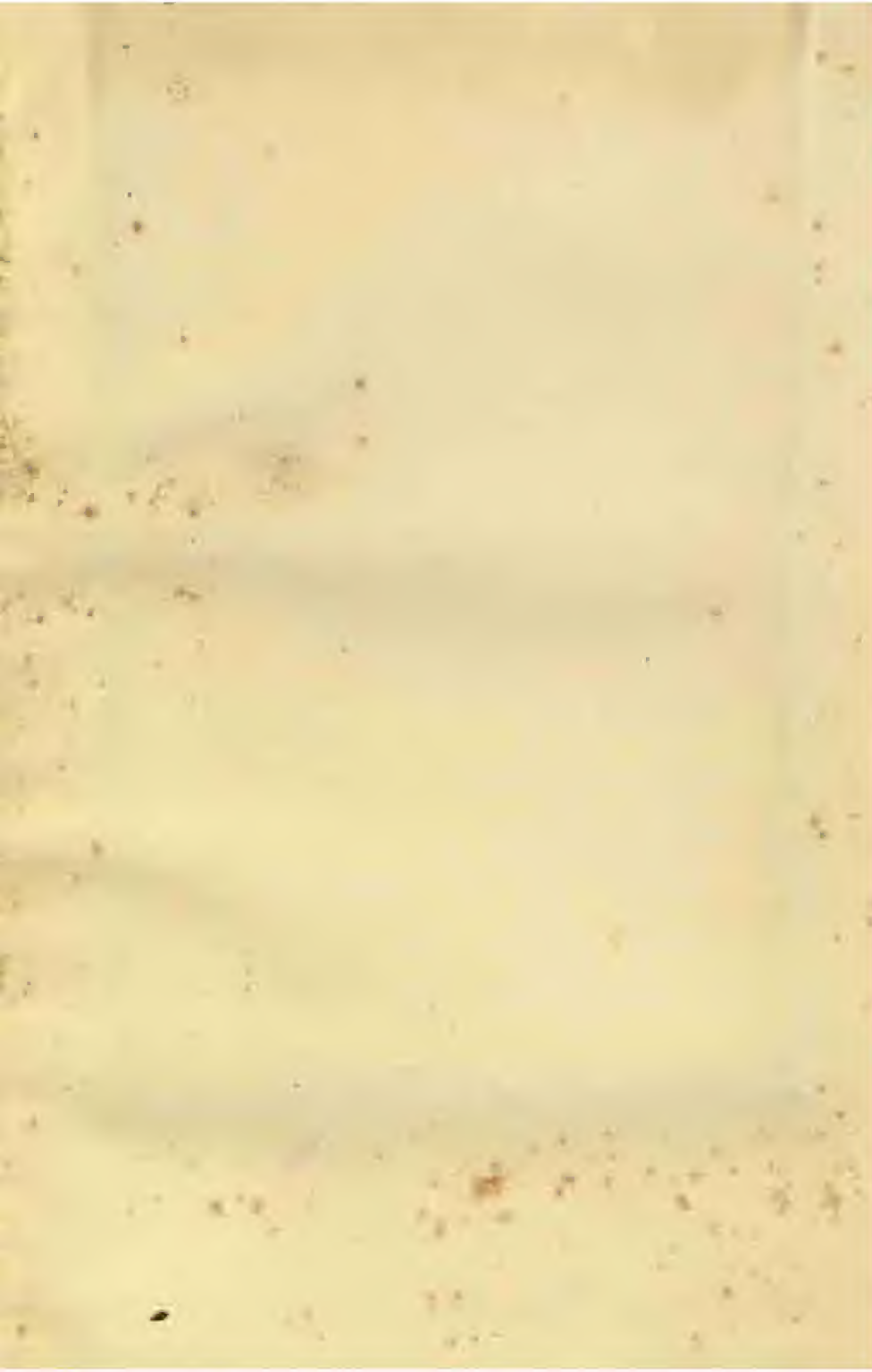
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